THE

BALTIMORE CITY CODE:

COMPRISING THE

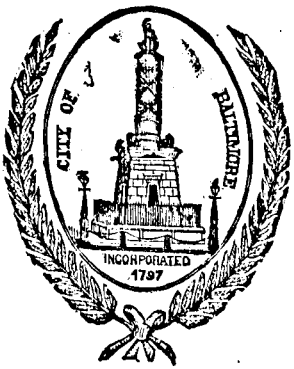
STATUTES AND ORDINANCES

RELATING TO THE

CITY OF BALTIMORE.

COMPILED BY

LEWIS MAYER.

PUBLISHED 

BY AUTHORITY.

BALTIMORE:
E. G. ARMIGER, CITY PRINTER.
1869.

PREFACE.

By a resolution of the Mayor and City Council of Baltimore, No. 295, approved June 20, 1868, the undersigned was "appointed to revise and codify the Ordinances of the City of Baltimore, and all the Laws of the General Assembly of Maryland relating to the City of Baltimore, in one volume, said volume also to contain a Digest of all Decisions of the Court of Appeals of this State relating to the City of Baltimore, and to be arranged alphabetically, under appropriate heads, with a full general index at the end of the volume, and a sub-index or syllabus at the head of each article or chapter, and also marginal indices and references to ordinances and laws codified."

This book has been prepared in accordance with the above resolution. It contains under each article (1) the Statutes; that is, the Acts of Assembly and Article 4 of the Code of Public Local Laws, and the sections of the Public General Laws now in force, relating to the City of Baltimore; (2) the Ordinances of the Mayor and City Council, revised and codified; and (3) notes comprising a digest or references to the Decisions of the Court of Appeals and of the Courts of the City, on the Statutes and Ordinances: and also notes to such other relevant matters as were deemed necessary and proper.

The plan of the work is to bring together, under appropriate heads, all the Statutes, Ordinances and Decisions relating to each particular subject-matter of legislation. The subjects

are arranged alphabetically into articles and sections, and there is placed at the head of each article a complete index of its contents, while each section has its separate marginal index, as well as a marginal reference, in the case of the Statutes, to the Act of Assembly or section of the Code of which it is composed, and, in the case of the Ordinances, to the ordinance or resolution.

In referring to the Statutes, for Acts of Assembly, the year, chapter and section are given thus: 1868, c. 181, s. 1; for sections of the Code of Public General Laws, thus: P. G. L., Art. 37, sec. 48; for sections of Article 4, of Public Local Laws, thus: P. L. L., Art. 4, sec. 12. In referring to the Ordinances, in the case of the Revised Ordinances of 1858, the reference is thus: No. 3, s. 1, R. O.; in the case of Ordinances, since the Revised Ordinances of 1858 or not contained therein, the reference is thus: No. 52, s. 1, May 7, '68, (that is, No. 52, section 1, approved May 7, 1868,) or No. 22, s. 1, April 9, '47; in the case of Resolutions, thus: Res. No. 22, Dec. 9, '58.

Article 4 of the Code of Public Local Laws, and all the sections of the Public General Laws, which especially affect the City of Baltimore and now in force, are contained in this volume. Where the sections of that article or of the Public General Laws which relate to the city, have been amended or re-enacted, the amending or re-enacting Act of Assembly is substituted, and where sections have been repealed, the repealing acts are noted. The Acts of Assembly since the adoption of the Code in 1860, to the end of the session of the General Assembly of 1868, are thus arranged in their appropriate places with the unrepealed or unamended sections of the Code, forming together a complete compilation of all Statutes now in force relating to the City of Baltimore.

The Acts of Assembly by which Ordinances of the Mayor and City Council are confirmed, will be found in juxtaposition to the Ordinances which they authorize.

All the articles and sections of the Constitution of the State, which especially affect the City of Baltimore, are also contained in this compilation.

The Ordinances were last revised in 1858. Since that revision, however, there have been many and important changes in the city laws; in some instances, departments of the city government have been remodeled and new systems of law introduced; in others, the Ordinances revised and enacted in 1858, have been overlaid with numerous repealing, amending and partially-repealing ordinances and resolutions, in many cases conflicting and contradictory. The compiler has endeavored to reduce this indigested mass into systematical order, and to arrange the Ordinances under such titles and sub-titles, as seemed to him, most conducive to labor-saving research and easy reference. In furtherance of this latter object, he has given at the end of the volume a comprehensive Index to its contents, with references to articles, sections and pages.

The Resolution and Ordinance adopting this work, are given on the following pages. It is proper to state, that although many of the Ordinances passed by the present session of the Mayor and City Council (Jan.–Oct. 1869) are herein contained; yet, as this work was printed before the adjournment of the Council, a reference to the Ordinances of this session is made necessary.

LEWIS MAYER.

RESOLUTION

RELATIVE TO THE PRINTING AND BINDING THE LAWS AND ORDINANCES AS CODIFIED BY LEWIS MAYER.

Resolved by the Mayor and City Council of Baltimore, that Eli G. Armiger, City Printer, be and he is hereby authorized and directed to print one thousand copies of the Laws of Maryland relative to the city of Baltimore, together with the Ordinances and Resolutions of the Mayor and City Council of Baltimore, as codified by Lewis Mayer, under Resolution No. 295, of 1868; and properly bind five hundred copies; and when completed, deliver the same to the Comptroller of the City, who is hereby authorized to furnish each member of the Council with a copy, and such other officers of the city and State, and public and law libraries, as the Mayor may direct, for the use of their respective offices; and the Comptroller is hereby authorized to furnish to any person so desiring a copy, upon the payment of an amount equal to the cost of printing and binding the same; the said printing and binding to be executed under the direction and supervision of the joint special committee of the two Branches of the City Council, consisting of Bernard Carter, S. Sands Mills and N. Rufus Gill, of the First Branch; and James M. Anderson, A. J. Saulsbury and William H. Owens, of the Second Branch; who are hereby authorized to do all things necessary to secure a proper performance of said work, and superintend the expense of printing and binding said work; the expense of the same to be provided for in the annual levy of 1869.

HENRY DUVALL,
President of the First Branch.

JAMES WEBB,
President of the Second Branch.

Approved March 23d, 1869:

ROBERT T. BANKS, *Mayor.*

ORDINANCE

ADOPTING THE REVISED ORDINANCES REPORTED UNDER RESOLUTION NO. 295, APPROVED JUNE 20, 1868.

SECTION 1. *Be it enacted and ordained by the Mayor and City Council of Baltimore*, That all the ordinances and parts of ordinances and resolutions printed and contained in the following pages of this book be, and the same are hereby declared to be the Ordinances of the Mayor and City Council of Baltimore, and that they shall have the force thereof; except, however, so far as the same may have been or may be amended or repealed by ordinances or resolutions passed by the present session of the Mayor and City Council of Baltimore.

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

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

SEC. 4. *And be it enacted and ordained*, That this ordinance shall take effect on and from the first day of November, eighteen hundred and sixty-nine.

HENRY DUVALL,
President of the First Branch.

JAMES WEBB,
President of the Second Branch.

Approved September 27th, 1869:

ROBERT T. BANKS, *Mayor.*

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CITY OF BALTIMORE.

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CONSTITUTION.—ART. XI.

SECTION 1. The inhabitants of the City of Baltimore, qualified by law to vote in said city for members of the House of Delegates, shall on the fourth Wednesday of October, eighteen hundred and sixty-seven, and on the same day in every fourth year thereafter, elect a person to be Mayor of the City of Baltimore, who shall have such qualifications, receive such compensation, discharge such duties, and have such powers as are now, or may hereafter be prescribed by law; and the term of whose office shall commence on the first Monday of November succeeding his election, and shall continue for four years, and until his successor shall have qualified; and he shall be ineligible for the term next succeeding that for which he was elected.

Mayor.

Term four years.

Ineligible

City Council, Two branches.

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

Time of election of members of Council.

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

Annual sessions to continue ninety days.

4. The regular sessions of the City Council of Baltimore, (which shall be annual,) shall commence on the third Monday of January of each year, and shall not continue more than ninety days, exclusive of Sundays; but the Mayor may convene the City Council in extra session whenever, and as often as it may appear to him that the public good may require; but no called, or extra session shall last longer than twenty days, exclusive of Sundays.

Extra sessions twenty days.

Members not to hold any other office.

5. No person, elected and qualified as Mayor, or as a member of the City Council, shall, during the term for which he was elected, hold any other office of profit or trust, created, or to be created, by the Mayor and City Council of Baltimore, or by any law relating to the corporation of Baltimore, or hold any employment, or position, the compensation of which shall be paid, directly or indirectly, out of the city treasury; nor shall any such person be interested, directly or indirectly, in any contract, to which the city is a party; nor shall it be lawful for any person, holding any office under the city, to be interested, while holding such office, in any contract, to which the city is a party.

Nor be interested in contracts.

Mayor may be removed.

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

No debt to be created or credit given without authority of Legislature and approval of voters.

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

Police.

Debts before Constitution.

Laws now in force continued.

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

General Assembly may make changes.

9. The General Assembly may make such changes in this Article, except in section seventh thereof, as it may deem best; and this Article shall not be so construed, or taken as to make the political corporation of Baltimore independent

City corporation under its control.

of, or free from the control, which the General Assembly of Maryland has over all such corporations in this State.[1]

STATUTES.

INCORPORATION.

P. L. L. art. iv, sec. 1.

Corporate powers.

1. The inhabitants of the City of Baltimore are a Corporation, by the name of the "Mayor and City Council of Baltimore," and by that name shall have perpetual succession, may sue and be sued, may purchase and hold real, personal and mixed property, or dispose of the same for the benefit of said city, and may have and use a common seal, which may be altered at pleasure.[2]

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[1] The City of Baltimore and the counties are public territorial divisions of the State, established for public political purposes connected with the administration of the government—possessing the character, and endowed with the powers of corporations, according to the laws severally applicable to each. They are mere instruments of government and parts of the State: as public corporations, they are subject to the control of the Legislature. *Mayor, &c., Balt.* v. *State*, 15 Md., 376; *Mayor, &c., Balt.* v. *Howard*, 20 Md., 335. The Mayor and City Council are but trustees of the public. *State* v. *Graves*, 19 Md., 351. *Horn* v. *Mayor, &c.*, 29 Md.

[2] Baltimore was incorporated, as a city, by act of 1796, c. 68. There are various supplemental acts, the most important of which are the acts of 1797, c. 54; 1805, c. 103; 1807, c. 152; 1817, c. 168; 1827, c. 183; 1828, c. 114; and 1832, c. 206. It was first laid out, as a town, under the provisions of the act of 1729, c. 12, entitled an act for erecting a town on the north side of Patapsco, in Baltimore county, and for laying out in lots, sixty acres of land in and about the place where one John Flemming now lives, on the land belonging to Charles Carroll, and known as Cole's Harbor. By this act: 1. Commissioners were appointed and empowered to purchase (by agreement or valuation of a jury) sixty acres of land, on the tract whereon John Flemming lived, commonly known by the name of Cole's Harbor, and to lay out the same, in the most convenient manner, into sixty equal lots, to be erected into a town. 2. The land being laid out, surveyed, marked, staked out, and divided into convenient streets, lanes, &c., and the lots marked, numbered, &c., the owner of the land to have the first choice for one lot, after which the remaining lots to be taken up by others; none to take up more than one lot during the first four months, nor any but inhabitants of the county within six months after laying out, after which, vacant lots might be taken up by any other persons; and the takers up of lots to pay the owner of the land the valuation of the sixty acres proportionably to their lots, which gave such purchasers, their heirs and assigns, an absolute estate in fee simple in the said lots, they complying with the requisites in the act mentioned. 3. The surveyor to return a plat of the town to the county clerk, to be by him kept among the county records. 4. In case the taker up of any lot or

PROPERTY.

2. All the property and funds of every kind belonging to or in possession of the city of Baltimore are vested in the said corporation, and the said corporation may receive in trust, and may control for the purpose of such trusts, all money or other property which may have been or shall be bestowed upon such corporation by will, deed, or in any other form of gift or conveyance in trust for any general corporation purpose, or in aid of the indigent and poor, or for the general purposes of education, or for charitable purposes of any description within the said city; and the said corporation may lease or otherwise dispose of any property belonging to the city, having first given public notice of such proposed lease or sale in one or more of the public newspapers of said city, at least once a week for three successive weeks before such lease or sale.

Ibid, sec. 2. Power to take and hold property.

Charities.

Leases.

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lots neglected to build thereon, within eighteen months, a house that should cover four hundred square feet, then any other person might enter upon such lot or lots so not built upon, paying the commissioners, or person by them thereunto appointed, the sum first set and assessed upon such lot, for the public use and benefit of the town; provided, such second taker up did build and finish, within eighteen months after such his entry made, such house as in the act before limited and appointed to be built by the first taker up and builder. 5. If any lots remained untaken up during seven years from the publication of the act, then the owner of the land (after such time expired) should be possessed and interested in such lots as in his first and former estate. 6. The town to be called "Baltimore-town." 7. The commissioners to employ a sufficient clerk to make true and impartial entries of their proceedings, upon oath, said entries to be made up into a well bound book and lodged with the clerk of Baltimore county court, for the inspection of any person. 8. Saving to the crown, the lord proprietary, all bodies politic and corporate, and all others not mentioned in the act, their several rights. 1732, c. 14, provided for erecting a town on a creek divided on the east from the town lately laid out in Baltimore county, on the land whereon Edward Fell keeps store. This was called "Jonas'-town," afterwards "Jones'-town," and comprised ten acres, laid out into twenty lots. By 1745, c. 9, Baltimore and Jones' towns were incorporated into one, as Baltimore-town. By 1747, c. 21, eighteen acres were added to the town. The present city boundaries were laid out under the act of 1816, c. 209.

Land lying north of Anne Arundel county had formed Baltimore county since 1659. The county court was held at Joppa, on the Gunpowder river, from an early period till 1768, when by act of 1768, c. 14, a court house and prison in Baltimore-town were erected (see 4 H. & J. 227,) "on the uppermost part of Calvert street next Jones' Falls," where the Battle monument now stands,—and on their completion, the records were removed from Joppa, which has now ceased to be.

WARDS.

Ibid, sec. 3. How divided.

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

Duty of corporation.

THE MAYOR.

Ibid, sec. 4.

4. The inhabitants of the City of Baltimore qualified to vote for members of the House of Delegates shall, on the fourth[1] Wednesday in October in every fourth[2] year, elect by ballot a person of known integrity, experience, and sound judgment, twenty-five years of age, ten years a citizen of the United States and five years a resident of said city next preceding the election and assessed on the books of the assessor with property in said city to the amount of five hundred dollars, to be Mayor of the City of Baltimore.

Election of Mayor.

Qualifications.

Ibid, sec. 5. Vacancy in office, how filled.

5. In case of a vacancy in the office of Mayor, the president of the first branch City Council, or if no president of the

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Under the act of 1852, c. 357, entitled an act to provide for the valuation and severance of the ownership of property held jointly by the city and county of Baltimore, Baltimore city was formed into a separate and independent municipal corporation for all governmental purposes. See 1827, c. 167; Const. 1851, art. 4, sec. 8, &c.; 1852, c. 49; 1852, c. 356; 1853, c. 200. By the vote of the county, November, 1853, the county seat of Baltimore county was located at Towsontown, under the act of 1853, c. 452. The acts of 1852, cs. 17, 18 and 86, authorized the justices of the peace for Baltimore county to take acknowledgements, &c. in the city, and the county public officers to keep their offices and hold their sittings in the city, until the completion of the public buildings at Towsontown—the erection of which was provided for by the acts of 1854, c. 144, and 1856, c. 280. Under the act of 1853, c. 253, and ordinance No. 118, Oct. 5, 1853, the interest of Baltimore county (one-half) in the court house, jail, record office, and other public property in Baltimore, was sold to the city. The city also granted to Baltimore county, by said ordinance, the free use of their public buildings for three years from January, 1855, the county to pay its proportion of the current expenses. As to the use of the county jail for city prisoners, &c., see ordinance No 93, June 10, 1858, and 1853, c. 200. The alms house property was sold by joint commissioners July 19, 1858, and the sale ratified and confirmed by ordinances Nos. 46, Sept. 23, 1858, and 51, Jan. 29, 1859, under the act of 1853, c. 253, entitled an act to provide for carrying into effect in part the valuation and division of the joint property of the city and county of Baltimore, and for adjusting their mutual concerns, and under the act of 1858, c. 248, entitled an act to consummate the division of the joint property of the city and county of Baltimore. The alms house in Baltimore county was leased, for a time, by the city under the ordinances Nos. 311, Sept. 14, 1860, and 335, Sept. 26, 1860.

[1] Fourth, by Const., art. xi, sec. 1. See p. 3 *ante*.

[2] Fourth, by Const., art. xi, sec. 1. See p. 3 *ante*.

first branch, or in his absence from the city, the president of the second branch, shall, within five days after such vacancy, order a new election, giving at least fifteen days' notice of the same by advertisement in all the newspapers in said city; and the president of the first branch of the City Council shall be *ex officio* Mayor until a new election.

Ibid, sec. 6. Who to act in case of sickness, &c.

6. In case of the sickness or necessary absence of the Mayor, the president of the first branch, or if no president of the first branch, or in his absence from the city or sickness, the president of the second branch, shall *ex officio* be Mayor of the city during the continuance of such sickness or necessary absence of the Mayor.

Ibid, sec. 7. Term of office.

7. The term of office of the Mayor shall commence on the first[1] Monday of November succeeding his election, and he shall receive such salary as shall have been provided by ordinance previous to his election.

Ibid, sec. 8. May act as justice of the peace. May call officers to account.

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

Ibid, sec. 9. To see ordinances executed. Message to Council.

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

Ibid, sec. 10. Ordinances to be approved. May return ordinance with reasons for not approving. How passed by Council over veto.

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

Ibid, sec. 11. When ordinance not returned.

11. If any ordinance shall not be returned by the Mayor within five days after it shall have been presented to him, the

[1] First, by Const., art. xi, sec. 1. See p. 3 *ante*.

same shall be a law in the same manner as if he had approved it, unless the City Council by their adjournment prevent its return.

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

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

CITY COUNCIL.

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

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

Ibid, sec. 13. First branch.

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

Ibid, sec. 14. Second branch.

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

Ibid, sec. 15. Election for First branch.

16. The election for members of the first branch shall be held on the fourth[1] Wednesday of October in each year, and shall be held by wards, and no person shall be entitled to vote for any but the member for the ward of which he is resident.

Ibid, sec. 16. For second branch.

17. The election for the members of the second branch shall be held on the fourth[2] Wednesday of October in every second year.

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[1] Fourth, by Const., art. xi, sec. 3. See p. 4 *ante*.

[2] Fourth, by Const., art. xi, sec. 3. See p. 4 *ante*. See art. — Elections, *post*.

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

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

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

21. The City Council shall meet on the first Monday of November of each and every year, and may continue in session for one hundred and twenty days, and no longer; provided, that they may by ordinance or resolution so arrange their sittings that the same may be held continuously or otherwise; provided further, that the Mayor may convene the said City Council in extra session as he may now do by virtue of the 4th section of the 11th article of the Constitution; and provided further, that the City Council of Baltimore shall not sit during the present year, ending October 30th, 1868, for more than one hundred and twenty days, including the days of the extra session of 1867 and the present regular sessions, unless convened in extra session, as aforesaid, by the Mayor.[1] Ibid, sec. 20, 1868, c. 451. Time of meeting. Provisos. Proviso.

22. They may compel the attendance of absent members, in such manner and under such penalties as they may by Ibid, sec. 21. Absent members.

[1] 1865, c. 176, amended and re-enacted section 20 of the Public Local Laws, art. iv., as follows: The City Council shall meet on the third Monday in January in each year, but the Mayor may summon them to convene whenever and as often as it may appear to him that the public good may require their deliberations; two-thirds of each branch shall be a quorum to do business, but a smaller number may adjourn from day to day. This section as then re-enacted was identical with the former section 20 in the Code, with the exception of "*third* Monday in January" substituted for "*first* Monday of January." The act of 1868, c. 451, repeals section 20 and re-enacts it so as to read as set forth in the text; it has thus repealed the last clause of the act of 1865, and of the former section 20 of the Code, which provided that: Two-thirds of each branch shall be a quorum to do business, but a smaller number may adjourn from day to day.

Presidents of branches.

ordinance provide; they shall appoint their respective presidents, who shall preside at all their sessions and shall vote on all questions.

Ibid, sec. 22. Qualifications, &c., of members. Expelling.

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

Ibid, sec. 23. Rules. Officers, fees. Journal. Deliberations public.

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

Ibid, sec. 24. Compensation to members.

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

POWERS OF MAYOR AND COUNCIL.

Ibid, sec. 33. Ordinances.

26. The Mayor and City Council shall have power to pass all ordinances necessary to give effect and operation to all the powers vested in the corporation of the city of Baltimore,[1] but the ordinances of the said corporation shall be in

[1] The tenure of their office impresses the ordinances of the Mayor and City Council with liability to change. They could not, if they would, pass an irrevocable ordinance. The corporation cannot abridge nor exceed its own legislative powers. *State* v. *Graves*, 19 Md., 351. *Mayor, &c.*, v. *Clunet*, 23 Md., 450. *Mayor, &c.*, v. *Hughes*, 1 G. & J., 480. A repealing ordinance of the Mayor, &c., cannot destroy or affect any right which was acquired under a previous ordinance before its repeal. *McMechen* v. *Mayor &c*, 2 H. & J. 41. See *State* v *Graves*, 19 Md. 371. A valid ordinance may be passed, to take effect on the happening of a future contingent event, even where that event involves the assent to its provisions by other parties. Every intendment and presumption ought to be made in support of the acts of corporations where exclusive jurisdiction and power to legislate upon a given subject has been conferred by law. *Mayor, &c., Balt.* v. *Clunet*, 23 Md. 450. *Mayor, &c.*, v. *Hughes*, 1 G. & J. 480. The Mayor and City Council have power to pass all ordinances necessary to carry into effect any given power. *Glenn* v. *Mayor, &c.*, 5 G. &. J. 424. *Mayor, &c., Balt.*, v. *Marriott*, 9 Md. 160. *Harrison* v. *Mayor, &c.*, 1 Gill, 264. *Methodist Prot. Church* v. *Mayor, &c.*, 6 Gill, 391. *Rittenhouse* v. *Mayor, &c.*, 25 Md. 336, *Horn* v. *Mayor, &c.*, 29 Md. *Mayor, &c.* v. *Moore*, 6 H. & J. 381. *Mayor, &c.* v. *Howard, ibid*, 389.

no wise obligatory upon the persons of non-residents of said city, unless in cases of intentional violation of ordinances previously promulgated.[1]

CITY OFFICERS.

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

Ibid, sec. 25.

Appointment of officers to be regulated by ordinances.

When Mayor to appoint with consent of Council.

Register.

Vacancies, how filled.

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

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

What officers to hold at pleasure of Mayor.

Commission, evidence.

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[1] The sections from 27 to 32, inclusive, of art. iv. of the Code of Public Local Laws, detailing powers of the corporation, are arranged hereinafter under their specific titles.

ORDINANCES.

THE MAYOR.

No. 84, Aug. 11, '64; No. 6, R. O.; No. 77, Sept. 6, '60; No. 54, Aug. 11, '62. Compensation.

1. The compensation of the mayor of the city of Baltimore is hereby fixed at three thousand dollars per annum.

No. 20, R. O. Compensation of mayor ex-officio.

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

No. 4, Dec. 3, '67.

3. In cases of litigation in which the interests of the mayor and city council of Baltimore are concerned, the mayor is authorized to execute in association with any other suitable person or persons he may procure, appeal bonds, injunction bonds, securityships for costs or other legal obligations, which may be necessary for the due prosecution of the interests of the municipal corporation in such cases before the courts; and the faith of the corporation is pledged for the due indemnification of the party or parties who may make such engagements or obligations on its behalf.[1]

Authority to execute appeal bonds, &c.

Indemnification.

SECRETARY TO THE MAYORALTY.

No. 53, Apl. 22, '64; No. 21. R. O.; No. 11, Dec. 16, '58. Secretary to the mayoralty. Salary. Duties.

4. There shall be annually appointed, as other city officers are appointed, a secretary to the mayoralty, who shall receive as a compensation for his services the annual salary of twelve hundred dollars; whose duty it shall be to attend at the mayor's office during hours of business and to take charge, under the direction of the mayor, of the city hall, and take care of the public property therein, and to perform all such other duties as may be required of him by the mayor, or by the register, with the approbation of the mayor.

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[1] The Mayor could not execute appeal bonds, &c., before this ordinance. See *Mayor, &c.* v. *B. & O. R. R. Co.*, 21 Md. 51.

MESSENGER AND JANITOR.

5. There shall be annually appointed, as other city officers are, a messenger to the mayor, whose duty it shall be to attend at the office of the mayor during business hours, to deliver messages, and perform such other duties as may be prescribed by the mayor, register and comptroller, and the said messenger 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 classify, mark or number the same, when necessary. No. 21, Mar. 15, '64. Duty of the messenger of the mayor.

6. There shall be annually appointed, as other city officers are, a janitor to the city hall, who shall, under the direction of the secretary to the mayoralty, take charge of and keep in good condition the building wherein the mayor's office and the different offices of the city government are situate, open and close the building, attend to the fires, and whose hours of duty shall be from 6 o'clock A. M. until 6 o'clock P. M. No. 21, Mar. 15, '64. Duties of janitor to city hall.

7. The compensation of the messenger shall be seven hundred and fifty dollars per annum, and of the janitor seven hundred dollars per annum, to be paid monthly, and they shall each give a good and sufficient bond in the sum of one thousand dollars for the faithful performance of their duties.[1] No. 21, Mar. 15, '64. No. 35, April 24, '66. No. 8, Feb. 23, '66. Salary of messenger and janitor. Bond.

WATCHMAN.

8. There shall be annually appointed, as other city officers are, a day watchman, whose duty it shall be to assist the janitor in the cleaning and arranging of the various offices in the city hall, from the hour of 6 to 9 A. M., after which hour, it shall be his No. 12, Mar. 3, '68; No. 30, s. 28 R. O. Day watchman.

[1] The office of "messenger to the mayor and janitor to the city hall" was created by ordinance No. 10, Dec. 16, 1858, and the duties were to be performed by one officer at a salary of $30 per month. By the ord. No. 14, April 11, '61, the office was prescribed for two persons, the messenger, at a salary of $420, and the janitor, at $360. By ord. No. 36, May 1, '63, the messenger's salary was increased to $500, and the janitor's to $480. By ord. No. 21, March 15, '64, the messenger's was increased to $650 and the janitor's to $600, and by ord. No. 35, April 24, '66, the salary of the messenger was placed at $750, and by ord. No. 8, Feb. 23, '66, the janitor's at $700.

Duties. further duty to discharge the office of general watchman in all parts of the city hall, until the hour of closing offices in the afternoon, when he shall again assist the janitor and remain in the building until relieved by the night watchman; Salary. the salary of said day watchman shall be forty dollars per month. And there shall also be annually appointed, as other Night watchman. city officers are, a night watchman, whose duty it shall be to watch and guard all parts of the city hall from the hour of 6 P. M. to 6 A. M., and remain in the building until relieved by the day watchman; the salary of said night watchman shall be forty dollars per month.

MAYOR'S DETECTIVE.

No. 10, Feb. 26, '64. 9. The mayor shall annually appoint, as other city officers are appointed, one efficient and discreet person, to be known and called the mayor's detective, who shall have all the Powers of detective. power and authority exercised by the detective police force in relation to the observance of the city ordinances, and for that purpose to arrest offenders, and whose duty it shall be to lodge information from time to time as to the observance of the city ordinances. Before entering upon the discharge of his duties, the aforesaid detective shall give good and satis- Bond. factory security to the mayor in the sum of twenty-five hun- Salary. dred dollars; and he shall be paid a salary of one thousand dollars per annum, payable monthly.

CITY COUNCIL.

No. 3, s. 1, R.O. 10. If any member of the city council shall neglect to Penalty for absence from council. appear at the hour of meeting in the branch of which he is a member, or shall, after appearance, absent himself before the hour of adjournment, without leave first obtained of the president of the branch of which he is a member, such person shall forfeit and pay a sum not exceeding two dollars for each offence, unless he is excused by the branch of which he is a member.

Ibid, s. 2. 11. The fines and forfeitures incurred under this ordinance Fines, how collected. shall be deducted out of any allowance due to the member

incurring the same; and if such member shall not have due to him a sum sufficient to discharge and pay the fines and forfeitures incurred as aforesaid, the balance or sum remaining due shall and may be collected in the same manner as other fines and forfeitures are and may be collected.

12. If any member shall not attend during the session of the city council, he shall transmit to the president of the branch of which he is a member a satisfactory excuse, in writing, during the session, or he may be fined in the discretion of his branch, not exceeding two dollars a day for each day he shall so absent himself. Ibid, s. 3. Absence during session.

13. Neither branch shall adjourn, without the consent of the other, for a longer time than one day during the session. Ibid, s. 4. Adjournment.

14. The members of the city council shall severally receive one dollar and fifty cents, as a compensation for each day's attendance. Ibid, s. 5. Compensation.

15. It shall not be lawful for any member of the city council to be appointed or to accept appointment to any office or clerkship under the corporation during the term for which he was elected as a member of the city council, the salary or emolument of which are fixed and determined by the mayor and city council, whether said appointment be made by the mayor individually, or by the mayor and city council in convention, or by any other officer or officers of the city. No. 3, s. 6, R.O. No. 90, Oct. 5, '64. No. 32, Mar. 21, '59.

16. It shall be the duty of each of the chief clerks of the city council, within thirty days after each and every session, to deliver, in person, to the register of the city, the journal of his respective branch of the city council; also all petitions, memorials, messages, reports and communications of every description, which may have been received during the session, and which may be in his possession at the close thereof; and the register of the city is hereby directed to withhold from said clerk or clerks, one-half of the amount or amounts which may be due him or them, until he or they shall have performed all the duties hereinbefore prescribed. No. 3, s. 7, R.O. Duty of clerks. Journal, &c. When to be paid by register.

Ibid, s. 8.
To endorse papers.

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

Ibid, s. 9.
To furnish proceedings to printer.

18. It shall be their duty to furnish the printer who may be selected by the register to print the journals of the council, with the proceedings of each branch, together with all petitions, memorials, communications, messages, reports of committees, and such other documents as shall be directed to be printed.

No. 30, Mar. 12, '59.
Copy of journal to be printed on writing paper.

19. A copy of the journal of each day's proceedings of the respective branches of the city council shall be printed on writing paper corresponding in size and margins with that on which the daily proceedings of the respective branches of the city council are now or may hereafter be printed.

No. 20, Feb. 18, '59.
No. 30, Mar. 12, '59.
Clerks to receive from printer of journals copy of same on writing paper.
To be delivered to register.
Evidence.

20. It shall be the duty of each of the chief clerks of the city council to receive from the printer of the journals of the council, a copy of the journal of each day's proceedings of the branch of which he is clerk, printed on writing paper, as provided in the preceding section, which copy, when revised, shall be signed by the respective clerk and president of said branch, and shall be, by said clerks respectively, delivered to the register of the city, by whom the same shall be bound in a substantial manner, and preserved in his office; which said certified journals shall be evidence of the proceedings of the respective branches of the city council.

No. 3, s. 14, R.O.
Engrossing.

21. The clerks of each branch of the city council, in engrossing the ordinances and resolutions passed by the city council, shall cause the same to be done on paper of good quality and uniform size, each sheet with an inner margin of at least two inches in width, the better to permit the same to be bound as provided for in the next succeeding section.

No. 8, s. 7, R.O.
Register to have bound engrossed ordinances.

22. The register shall cause the original engrossed copies of the ordinances and resolutions, passed by the city council, to be suitably bound in a volume, labelled with the year or years of the several sessions during which the same were passed, and properly paged and supplied with an index of the full title of each of said ordinances and resolutions.

23. It shall be the duty of the register, immediately after the approval of any ordinance or resolution of the city council, effecting any of the departments of the city government, either by ordering them to do certain work or otherwise, to send a copy of such ordinance or resolution to the head of department so alluded to. No. 78, May 12, '59. Register to send copies of ordinances to heads of departments.

24. The register shall annually furnish to the State library two copies, and to the library company of the Baltimore bar, two copies of the ordinances and journals for that year. No. 8, s. 16, R.O. To furnish ordinances to State library, &c.

25. It shall be the duty of the register to contract for the daily printing of the journal of each branch, so that each member of the council may have, at the session of every afternoon, the journal of the preceding day; to cause all the ordinances and resolutions of the city, of a public or general nature, to be published in such and so many newspapers as he may deem best calculated to give general information to the citizens; provided that no higher rate or charge be allowed for publication in the German newspapers than shall be charged for printing the same ordinances and resolutions in the newspapers printed in the English language, and that the whole expense to be thereby incurred shall not exceed the annual appropriation for that object; and likewise cause the same to be published in book form, and the annual reports of the different officers of the city to be bound up therewith; and it shall be his duty carefully to examine the proof sheets of the ordinances and resolutions and officers' returns when published in a volume, and to furnish an index and proper references to former ordinances. Ibid, s. 9. To publish journal, ordinances, &c. Contract for printing. Proviso.

26. It shall be the duty of the register, annually before the first day of September, to advertise by giving daily notice, for ten days, in three of the daily newspapers of the city for sealed proposals for printing the ordinances and other papers required to be printed, and likewise for such printing as may be required by the council during its session, and by the various city officers; and at the same time the register shall advertise for such stationery as may be required for the use of Ibid, s. 10; Res. No. 22, Dec. 9, '58; Res. No. 177; Sept. 22, '64. To advertise for proposals for printing, &c.

the corporation during the year. And all book and job printing required by the mayor and city council and all the city departments, whether enumerated or not, shall be executed by the person or persons having the contract for the city printing, at the rates specified in said contract; the charges for the same to be provided for by the register in the annual levies.

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

Bonds from contractors.

27. For all contracts under the preceding two sections, the register is hereby required to take bonds of the contractors, certified by the comptroller, to be with good and sufficient security, and to be approved by the mayor, for such sum as in his judgment may be adequate to secure their fulfilment.

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

Printers to be paid quarterly.

28. The register is hereby directed, on the certificate of the comptroller, with the approbation of the mayor, to pay quarterly to the publishers of such papers as may be designated for that purpose, all bills for public or corporation printing which may be required by ordinance, or which shall be ordered by any of the corporate authorities of the city; provided, that the whole expense thereby incurred shall not exceed the amount annually appropriated for that purpose; and that all the bills aforesaid shall be certified by the several parties presenting them to be charged at the usual customary prices charged for such work, from which the register shall deduct twenty-five per centum upon the payment thereof.

Proviso.

25 per cent. to be deducted.

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

Duty of assistant clerk of the first branch.

29. It shall be the duty of the assistant clerk of the first branch of the city council, under the direction of the chief clerk, with the approval of the president of the first branch, to engross all ordinances and resolutions passed by the council which originate in the first branch; to have all petitions, memorials, messages, reports and communications, properly endorsed, ready for the signature of the chief clerk; to write all messages from the first to the second branch, and to prepare all communications rendered necessary by order or resolution of the branch, ready for the signature of the chief clerk; to convey all messages from the first to the second branch, and to perform all such other duties as may be required of him by the council in connection with their business, except the preparation of the manuscript journal for the printer, and

the recording of the approved proceedings in the regular journal of the session; provided, however, that in case of the absence from sickness or other cause of the chief clerk, he shall perform said duty also. Proviso.

30. The chief clerks of the city council shall on the last day of every session, lay before their respective branches a per diem sheet with the name of every member, the number of days he has attended, as recorded on their journals for the said session, and the amount carried out to each name; and shall, furthermore, deliver said sheet to the register of the city within five days after each session. Ibid, s. 11. Per diem sheet.

31. The clerk of the second branch is constituted the chief clerk of the two branches when in convention, and as such, shall immediately after the adjournment of a convention, notify the mayor of the adoption or rejection of any nomination, and of all appoinments made by said convention. Ibid, s. 12. Clerk to the two branches in convention.

32. It shall be the duty of the clerks of the two branches of the city council to prepare weekly statements of the appropriations of money passed by the two branches of the city council, and on each Monday during the session, to place the same on the journals of the respective branches of the city council, and such statements shall show the aggregate amount of appropriations up to the time of preparing them. Ibid, s, 13. Weekly statement of appropriations.

33. Every member of the branches of the city council and every corporation officer, shall respectively before entering on his duty as such officer, take and subscribe the oath set forth in the sixth section of article 1 of the Constitution, and no other [1]oath. No. 1, Nov. 31, '67. Oath of members and corporation officers.

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[1] This ordinance recites that sec. 6 of art. 1 of the Constitution requires, that "every person elected or appointed to any office of profit or trust under this Constitution, or under the laws made pursuant thereto, shall, before he enters on the duties of such office," take the oath set forth in said section, and that the 37th article of the Bill of Rights ordains, "nor shall the Legislature prescribe any other oath of office than the oath prescribed by the Constitution."—The oath is as follows: I, ——, do swear, (or affirm, as the case may be,) that I will support the Constitution of the United States; and that I will be faith-

WARDS.

No. 79, Sept. 18, '60. 34. The limits of the several wards of the city of Baltimore shall be as follows: [1]

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

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

Precinct No. 2.—Beginning at the intersection of the water line and Gwynn street; along Gwynn and Gist streets to Eastern avenue; along Eastern avenue to Wolf street; along Wolf and Fell streets to the water line; and along the water line to place of beginning.

Precinct No. 3.—Beginning at the intersection of Eastern avenue and the city limits; along the city limits to Pratt street; along Pratt street to Wolf street; along Wolf street to Eastern avenue; and along Eastern avenue to the place of beginning.

Precinct No. 4.—Beginning at the intersection of Pratt street and city limits; along the city limits to Monument street; along Monument street to Wolf street; along Wolf

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ful and bear true allegiance to the State of Maryland, and support the Constitution and Laws thereof; and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of ———, according to the Constitution and Laws of this State, (and, if a governor, senator, member of the House of Delegates, or judge,) that I will not directly or indirectly, receive the profits, or any part of the profits, of any other office during the term of my acting as ———.

[1] This ordinance recites sec. 3 of art. 4, public local laws, *ante*, p. 7. The city was divided into twelve wards by 1817, c. 168, and finally into twenty wards by 1844, c. 282; 1845, c. 238, and 1847, c. 175.

street to Pratt street; and along Pratt street to the place of beginning.

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

Precinct No. 1.—Beginning at Fell street and the water line; running along Fell street to Wolf street; along Wolf street to Lancaster street; along Lancaster street to Caroline street; along Caroline street to Thames street; along Thames street south to the water line; and along the water line to place of beginning.

Precinct No. 2.—Beginning at the intersection of Lancaster and Wolf streets; running along Wolf street to Canton avenue; along Canton avenue to Caroline street; along Caroline street to Lancaster street; and along Lancaster street to the place of beginning.

Precinct No. 3.—Beginning at the intersection of Canton avenue and Wolf street; running along Wolf street to Bank street; along Bank street to Caroline street; along Caroline street to Canton avenue; and along Canton avenue to the place of beginning.

Precinct No. 4.—Beginning at the intersection of Thames street and the water line, (near Abrahams' ship yard;) running along Thames street to Caroline street; along Caroline to Bank street; along Bank to Canal street, (or Central avenue;) along Canal street to Eastern avenue; along Eastern avenue to Jones' Falls; along the east side of Jones' Falls and the water line to the place of beginning.

36. THIRD WARD.—Beginning at the intersection of Central avenue and Baltimore street; thence south on east side of Central avenue to Bank street; thence east on north side of Bank street to Wolf street; thence north on west side of

Wolf street to Baltimore street; thence west on south side of Baltimore street to place of beginning.

Precinct No. 1.—Beginning at the intersection of Bank and Wolf streets; running along Wolf street to Pratt street; along Pratt street to Bond street; along Bond street to Bank street; and along Bank to place of beginning.

Precinct No. 2.—Beginning at the intersection of Bank and Bond streets; running along Bond to Pratt; along Pratt to Canal, (or Central avenue;) along Canal to Bank; and along Bank to the place of beginning.

Precinct No. 3.—Beginning at the intersection of Pratt and Wolf streets; running along Wolf to Baltimore street; along Baltimore to Bond street; along Bond to Pratt street; and along Pratt to the place of beginning.

Precinct No. 4.—Beginning at the intersection of Pratt and Bond streets; running along Bond to Baltimore street; along Baltimore to Canal, (or Central avenue;) along Canal to Pratt street; and along Pratt street to the place of beginning.

37. FOURTH WARD.—Beginning at the intersection of Central avenue and Fayette street; thence south on the west side of Central avenue to Eastern avenue; thence west on north side of Eastern avenue around to Jones' Falls; thence north along the line of Jones' Falls to Fayette street; thence east on south side of Fayette street to the place of beginning.

Precinct No. 1.—Beginning at the intersection of Eastern avenue and Canal street, (or Central avenue;) running along Canal to Granby street; along Granby to High street; along High street to Eastern avenue; and along Eastern avenue to place of beginning.

Precinct No. 2.—Beginning at the intersection of Eastern avenue and High street; running along High to Granby street; along Granby street to Jones' Falls; along Jones Falls, east side, to Eastern avenue; and along Eastern avenue to the place of beginning.

Precinct No. 3.—Beginning at the intersection of Granby and Canal streets, (or Central avenue;) running along Canal to Fayette street; along Fayette to Exeter street; along

Exeter to Granby street; and along Granby street to place of beginning.

Precinct No. 4.—Beginning at the intersection of Granby and Exeter streets; running along Exeter to Fayette street; along Fayette street to Jones' Falls; along Jones' Falls, east side, to Granby street; and along Granby street to the place of beginning.

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

Precinct No. 1.—Beginning at the intersection of Fayette and Canal streets, (or Central avenue;) running along Canal to Jefferson street; along Jefferson to Aisquith street; along Aisquith to Low street; along Low to East street; along East to Fayette street; and along Fayette street to place of beginning.

Precinct No. 2.—Beginning at the intersection of Fayette and East streets; running along East to Low street; along Low street to Jones' Falls; along Jones' Falls, east side, to Fayette street; and along Fayette street to the place of beginning.

Precinct No. 3.—Beginning at the intersection of Jefferson street and Canal street, (or Central avenue;) running along Canal to Monument street; along Monument to Hillen street; along Hillen to East street; along East to Low street; along Low to Aisquith street; along Aisquith to Jefferson street; and along Jefferson to place of beginning.

Precinct No. 4.—Beginning at the intersection of Low and East streets; running along East to Hillen street; along Hillen street to Jones' Falls, east side, to Low street; along Low street to the place of beginning.

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

Precinct No. 1.—Beginning at the intersection of Baltimore and Wolf streets; running along Wolf to Orleans street; along Orleans to Ann street; along Ann to Mulliken street; along Mulliken to Caroline street; along Caroline to Baltimore street; and along Baltimore street to the place of beginning.

Precinct No. 2.—Beginning at the intersection of Baltimore and Caroline streets; running along Caroline to Mulliken street; along Mulliken to Canal street, (or Central avenue;) along Canal to Baltimore street; and along Baltimore street to the place of beginning.

Precinct No. 3.—Beginning at the intersection of Orleans and Wolf streets; running along Wolf to Monument street; along Monument to Caroline street; along Caroline to Mulliken street; along Mulliken to Ann street; along Ann to Orleans street; and along Orleans street to the place of beginning.

Precinct No. 4.—Beginning at the intersection of Mulliken and Caroline streets; running along Caroline to Monument street; along Monument to Canal street, (or Central avenue;) along Canal to Mulliken street; and along Mulliken street to the place of beginning.

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

Precinct No. 1.—Beginning at the intersection of the eastern city limits and Monument street; running along the line of city limits, north and west, to Belair avenue; along

Belair avenue to Dallas street; along Dallas to Monument street; and along Monument street to the place of beginning.

Precinct No. 2.—Beginning at the intersection of Monument and Dallas streets; running along Dallas to Eager street; along Eager to Canal street, (or Central avenue;) along Canal to Monument street; and along Monument street to the place of beginning.

Precinct No. 3.—Beginning at the intersection of Monument and Canal streets, (or Central avenue;) running along Canal to Eager; along Eager to Ensor; along Ensor to Monument; and along Monument to the place of beginning.

Precinct No. 4.—Beginning at the intersection of Eager street and Belair avenue; running along Belair avenue to the city limits; along the city limits to Harford avenue; along Harford avenue to Ensor street; and along Ensor to Eager street, to the place of beginning.

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

Precinct No. 1.—Beginning at the intersection of Hillen street and Jones' Falls; running along Hillen to Forrest street; along Forrest to French street; along French to Centre street; along Centre street to Jones' Falls; along Jones' Falls, east side, to the place of beginning.

Precinct No. 2.—Beginning at the intersection of Hillen and Forrest streets; running along Hillen to Ensor street; along Ensor to Eager street; along Eager street to York avenue; along York avenue to Forrest street; and along Forrest street to the place of beginning.

Precinct No. 3.—Beginning at the intersection of York avenue and French street; running along York avenue to Eager street; along Eager street to Jones' Falls; along

Jones' Falls, east side, to Centre street; to French; and along French street to the place of beginning.

Precinct No. 4.—Beginning at the intersection of Eager street and Harford avenue; running along Harford avenue, north, to the city limits; along the city limits to Jones' Falls; along Jones' Falls, east side of Eager street, and along Eager street to the place of beginning.

42. NINTH WARD.—Beginning at the intersection of Charles and Pratt streets; thence east on north side of Pratt street and around the Basin to Jones' Falls; thence north along line of said Falls to Franklin street; thence west on south side of Franklin street to Charles street; thence south on east side of Charles street to place of beginning.

Precinct No. 1.—Beginning at the mouth of Jones' Falls, and thence on the west side thereof to Baltimore street; along Baltimore to South street; along South street to the water line; and along the water line to the place of beginning.

Precinct No. 2.—Beginning on South street at the water line; thence along South to Lexington street; along Lexington to Charles street; along Charles to Pratt street; along Pratt street to Bowly's wharf; and along Bowly's wharf to the place of beginning.

Precinct No. 3.—Beginning at the intersection of Baltimore street and Jones' Falls; along Jones' Falls to Franklin street; along Franklin to North street; along North to Baltimore street; and along Baltimore street to the place of beginning.

Precinct No. 4.—Beginning at the intersection of Lexington and North streets; thence along North street to Franklin; along Franklin to Charles street; along Charles to Lexington street; and along Lexington street to the place of beginning.

43. TENTH WARD.—Beginning at the intersection of Franklin and Paca streets; thence east on south side of Franklin street to Charles street; thence south on west side of Charles street to Pratt street; thence west on north side of Pratt street to Paca street; thence north on east side of Paca street to place of beginning.

Precinct No. 1.—Beginning at the intersection of Pratt and Charles streets; running along Charles to Baltimore street; along Baltimore to Paca street; along Paca to Pratt street; and along Pratt street to the place of beginning.

Precinct No. 2.—Beginning at the intersection of Baltimore and Charles streets; running along Charles to Franklin; along Franklin to Park; along Park to Liberty; along Liberty to Baltimore; along Baltimore to the place of beginning.

Precinct No. 3.—Beginning at the intersection of Baltimore and Liberty streets; running along Liberty to Park street; along Park to Clay street; along Clay to Eutaw street; along Eutaw to Lexington street; along Lexington to Paca street; along Paca to Baltimore street; and along Baltimore street to place of beginning.

Precinct No. 4.—Beginning at the intersection of Clay and Park streets; along Park to Franklin street; along Franklin to Paca street; along Paca to Lexington street; along Lexington to Eutaw street; along Eutaw to Clay street; and along Clay street to place of beginning.

44. ELEVENTH WARD.—Beginning at the intersection of Franklin and Paca streets; thence north on the east side of Paca street to Ross street; thence northwestwardly on the northeast side of Ross street to Biddle street; thence northeast and east on the southeast and south side of Biddle street to Jones' Falls; thence south along the line of Jones' Falls to Franklin street; thence west on the north side of Franklin street to place of beginning.

Precinct No. 1.—Beginning at the intersection of the line of Franklin street extended and Jones' Falls; running along Jones' Falls to Madison street; along Madison to North street; along North to Read street; along Read to Charles street; along Charles to Franklin street; and along Franklin street to place of beginning.

Precinct No. 2.—Beginning at the intersection of Franklin and Charles streets; along Charles to Read street; along

Read to Richmond street; along Richmond to Howard street; along Howard to Franklin street; along Franklin to place of beginning.

Precinct No. 3.—Beginning at the intersection of Franklin and Howard streets; running along Howard to Richmond street; along Richmond to Biddle street; along Biddle to Ross street; along Ross to Paca street; along Paca to Franklin street; and along Franklin street to the place of beginning.

Precinct No. 4.—Beginning at the intersection of Madison street and Jones' Fall; running along Jones' Falls to Biddle street; along Biddle to Richmond street; along Richmond to Read street; along Read to North street; along North to Madison street; along Madison street to the place of beginning.

45. TWELFTH WARD.—Beginning at the intersection of Ross and Biddle streets; thence northeast and east on the northwest and north side of Biddle street to Jones' Falls; thence northwardly along the line of Jones' Falls to city limits; thence west along city limits to Ross street; thence southeast on northeast side of Ross street to place of beginning.

Precinct No. 1.—Beginning at the intersection of Biddle street and Jones' Falls; running along Jones' Falls to West Federal street; along West Federal to Cathedral street; along Cathedral to Dolphin street; along Dolphin to Garden street; along Garden to Biddle street; along Biddle street to the place of beginning.

Precinct No. 2.—Beginning at the intersection of Biddle and Garden streets; running along Garden to Dolphin street; along Dolphin to Madison avenue; along Madison avenue to Biddle street; along Biddle street to the place of beginning.

Precinct No. 3.—Beginning at the intersection of Biddle street and Madison avenue; running along Madison avenue to Dolphin street; along Dolphin to Ross street; along Ross to Biddle street; along Biddle to the place of beginning.

Precinct No. 4.—Beginning at the intersection of West Federal street and Jones' Falls; along Jones' Falls north to the city limits; along city limits to Ross street; along Ross to Dolphin street; along Dolphin to Cathedral street; along Cathedral to West Federal street; and along West Federal street to the place of beginning

46. THIRTEENTH WARD.—Beginning at the intersection of Lexington and Paca streets; thence west on the north side of Lexington street to Poppleton street; thence north on east side of Poppleton street to Franklin street; thence east on south side of Franklin street to Paca street; thence south on west side of Paca street to place of beginning.

Precinct No. 1.—Beginning at the intersection of Lexington and Paca streets; running along Paca to Franklin street; along Franklin to Pearl street; along Pearl to Lexington street; along Lexington street to the place of beginning.

Precinct No. 2.—Beginning at the intersection of Lexington and Pearl streets; along Pearl to Franklin street; along Franklin to Pine street; along Pine to Lexington street; and along Lexington street to the place of beginning.

Precinct No. 3.—Beginning at the intersection of Lexington and Pine streets; along Pine to Sarah Ann street; along Sarah Ann street to Harmony lane; along Harmony lane to Poppleton street; along Poppleton to Lexington street; and along Lexington street to the place of beginning.

Precinct No. 4.—Beginning at the intersection of Sarah Ann and Pine streets; along Pine to Franklin street; along Franklin to Poppleton street; along Poppleton to Harmony lane; and along Harmony lane and Sarah Ann street to the place of beginning.

47. FOURTEENTH WARD.—Beginning at the intersection of Pratt and Paca streets; thence west on the north side of Pratt street to Poppleton street; thence north on the east side of Poppleton street to Lexington street; thence east on the

south side of Lexington street to Paca street; and thence south on west side of Paca street to the place of beginning.

Precinct No. 1.—Beginning at the intersection of Pratt and Paca streets; running along Paca to Baltimore street; along Baltimore to Fremont street; along Fremont to Pratt street; and along Pratt street to the place of beginning.

Precinct No. 2.—Beginning at the intersection of Pratt and Fremont streets; running along Fremont to Baltimore street; along Baltimore to Poppleton street; along Poppleton to Pratt street; and along Pratt street to the place of beginning.

Precinct No. 3.—Beginning at the intersection of Baltimore and Paca streets; running along Paca to Lexington street; along Lexington to Pine street; along Pine to Baltimore street; and along Baltimore street to the place of beginning.

Precinct No. 4.—Beginning at the intersection of Baltimore and Pine streets; running along Pine to Lexington street; along Lexington to Poppleton street; along Poppleton to Baltimore street; and along Baltimore street to the place of beginning.

48. FIFTEENTH WARD.—Beginning at the intersection of Howard and Pratt streets; thence south on east side of Howard street to Henrietta street; thence east on north side of Henrietta and Warren streets to water line of basin; thence along water line of basin to Pratt street; thence west on south side of Pratt street to the place of beginning.

Precinct No. 1.—Beginning at the intersection of Warren street and the water line; running along the water line to the intersection of Lee and Light streets; along Light to Montgomery street; along Montgomery to Charles street; along Charles to Henrietta; along Henrietta and Warren streets to the place of beginning.

Precinct No. 2.—Beginning at the intersection of Henrietta and Charles streets; running along Charles to Montgomery

street; along Montgomery to Light street; along Light to Hill street; along Hill to Howard street; along Howard to Henrietta street; and along Henrietta street to the place of beginning.

Precinct No. 3.—Beginning at the intersection of Hill and Light streets; running along Light to Barre street; along Barre to Howard street; along Howard to Hill street; and along Hill street to the place of beginning.

Precinct No. 4.—Beginning at the intersection of Barre and Light street wharf; running along Light street wharf to Pratt street; along Pratt to Howard street; along Howard to Barre street; and along Barre street to the place of beginning.

49. SIXTEENTH WARD.—Beginning at the intersection of Pratt and Howard streets; thence south on the west side of Howard street to Hamburg street; thence northwest on northwest side of Hamburg street and Cross street to Poppleton street; thence north on east side of Poppleton street to Pratt street; thence east on south side of Pratt street to the place of beginning.

Precinct No. 1.—Beginning at the intersection of Hamburg and Howard streets; running along Howard to Lee street; along Lee to Little Green street; along Little Green to south Paca street; along south Paca to Hamburg street; and along Hamburg to the place of beginning.

Precinct No. 2.—Beginning at the intersection of Hamburg and south Paca streets; running along south Paca to Fremont street; along Fremont to Pratt street; along Pratt to Poppleton street; along Poppleton to Cross street; along Cross and Hamburg streets to the place of beginning.

Precinct No. 3.—Beginning at the intersection of Lee and Howard streets; running along Howard street to Pratt street; along Pratt to Green street; along Green and Little Green to Lee street; and along Lee to the place of beginning.

Precinct No. 4.—Beginning at the intersection of south Paca and Little Green streets; running along Little Green and Green to Pratt street; along Pratt to Fremont street; along Fremont to south Paca street; along south Paca street to the place of beginning.

50. SEVENTEENTH WARD.—Beginning at the intersection of Henrietta and Hanover streets; thence east on south side of Henrietta and Warren streets to water line; thence along water line to Clement street; thence east on south side of Clement street to Hanover street; thence north on east side of Hanover street to the place of beginning.

Precinct No. 1.—Beginning at the intersection of Ferry Bar road with the southern city limits; running along the city limits west to the water line; along the water line northwestwardly to Clement street; along Clement to Hanover street; along Hanover to Ostend street; along Ostend to Light street; along Light to Gittings street; along Gittings to William street; along William to Clement or Water street; along Clement or Water street to the water line; and along the water line to the place of beginning.

Precinct No. 2.—Beginning at the intersection of the water line and Cross street; running along Cross to Hanover street; along Hanover to Ostend street; along Ostend to Light street; along Light to Gittings street; along Gittings to William street; along William to Clement or Water street; along Clement or Water street to the water line; along the water line north to the place of beginning.

Precinct No. 3.—Beginning at the intersection of Cross street and the water line; along the water line north to Hamburg street; along Hamburg to Hanover street; along Hanover to Cross street; along Cross street to the place of beginning.

Precinct No. 4.—Beginning at the intersection of Hamburg street and the water line; along water line north to Warren street; along Warren and Henrietta to Hanover street; along

Hanover to Hamburg street; along Hamburg street to the place of beginning.

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

Precinct No. 1.—Beginning at the intersection of Hanover and Ostend streets; running along Hanover to Henrietta street; along Henrietta to Howard street; along Howard to Hamburg street; along Hamburg to south Paca street; along south Paca to the city limits; along the city limits and water line to Clement street; and along Clement street to the place of beginning.

Precinct No. 2.—Beginning at the intersection of south Paca street and the city limits; running along south Paca to Hamburg and Cross streets, to Poppleton; along Poppleton to Lombard street; along Lombard to Republican street; along Republican to Pratt street; along Pratt to Carey street; along Carey, south, to the main stem of the Baltimore and Ohio Railroad; along the Baltimore and Ohio Railroad, southwest, to the city limits; along the city limits, south and east, to the place of beginning.

Precinct No. 3.—Beginning at the intersection of Lombard and Poppleton streets; running along Poppleton to Baltimore street; along Baltimore to Republican street; along Republican to Lombard street; along Lombard street to the place of beginning.

Precinct No. 4.—Beginning at the intersection of Pratt and Republican streets; running along Republican to Baltimore street; along Baltimore street to the city limits; along the city limits, south, to the main stem of the Baltimore and Ohio Railroad; along the main stem of the Baltimore and Ohio Railroad, northeast, to Carey, to Pratt street; and along Pratt street to the place of beginning.

52. NINETEENTH WARD.—Beginning at the intersection of Baltimore and Poppleton streets; thence north on west side of Poppleton street to Franklin street; thence east on north side of Franklin street to Fremont street; thence northeast on northwest side of Fremont street and Pennsylvania avenue to city limits; thence west and south along city limits to Baltimore street; thence east on north side of Baltimore street to place of beginning.

Precinct No. 1.—Beginning at the intersection of Baltimore and Poppleton streets; running along Poppleton to Lexington street; along Lexington to Schroeder street; along Schroeder to Fayette street; along Fayette to Republican street; along Republican to Baltimore street; and along Baltimore street to the place of beginning.

Precinct No. 2.—Beginning at the intersection of Fayette and Schroeder streets; running along Schroeder to Saratoga street; along Saratoga to Republican street; along Republican to Fayette street; and along Fayette street to place of beginning.

Precinct No. 3.—Beginning at the intersection of Baltimore and Republican streets; running along Republican to Saratoga street; along Saratoga to the city limits; along the city limits to Baltimore street; and along Baltimore street to the place of beginning.

Precinct No. 4.—Beginning at the intersection of Lexington and Poppleton streets; running along Poppleton to Franklin street; along Franklin to Fremont street; along Fremont and Pennsylvania avenue to the city limits; along the city limits, west and south, to Saratoga street; along

Saratoga to Schroeder street; along Schroeder to Lexington street; and along Lexington to the place of beginning.

53. TWENTIETH WARD.—Beginning at the intersection of Fremont and Franklin streets; thence northwest on northeast side of Fremont street and Pennsylvania avenue to the city limits; thence east along the city limits to Ross street; thence southeast on southwest side of Ross street to Paca street; thence south on west side of Paca street to Franklin street; thence west on north of Franklin street to place of beginning.

Precinct No. 1.—Beginning at the intersection of Franklin and Paca streets; running along Paca to Ross; along Ross to Union; along Union to Pennsylvania avenue; along Pennsylvania avenue to Franklin street; and along Franklin street to the place of beginning.

Precinct No. 2.—Beginning at the intersection of Franklin street and Pennsylvania avenue; along Pennsylvania avenue to Greenwillow street; along Greenwillow to Chatsworth; along Chatsworth to George; along George to Fremont; along Fremont to Franklin; and along Franklin to the place of beginning.

Precinct No. 3.—Beginning at the intersection of Ross and Union streets; along Ross to Dolphin; along Dolphin to Fremont; along Fremont to George; along George to Chatsworth; along Chatsworth to Greenwillow; and along Greenwillow and Union streets to place of beginning.

Precinct No. 4.—Beginning at the intersection of Ross and Dolphin streets; along Ross to the city limits; along the city limits to Pennsylvania avenue; along Pennsylvania avenue and Fremont street to Dolphin; and along Dolphin to the place of beginning.[1]

[1] The above ordinance is based on the report of the commissioners appointed by virtue of ordinance No 40, June 12, '60, which is as follows:

1. Be it enacted and ordained by the mayor and city council of Baltimore, that for the purpose of effecting the object herein contemplated, it shall be the duty of the mayor, within five days next ensuing his approval of this ordinance, to de-

signate to the two branches of the city council, in convention assembled, five qualified voters of the city of Baltimore, two of whom shall reside east, and three west of Jones' Falls, for their approval and confirmation, who shall be styled commissioners.

2. That the commissioners so nominated and confirmed, shall as soon as practicable, proceed to correct the divisions of the several wards of the city, in such manner as that eight thereof shall be located east, and twelve west of Jones' Falls, as now arranged; said correction to be by right lines as nearly as practicable, and to give to each ward, as nearly as possible, an equal number of voters, and said commissioners, or a majority of them, shall make out two returns under their hands and seals, which shall describe particularly the metes and bounds, by streets, lanes and alleys, of each of said wards, and designate the same by numbers, from number one to number twenty, inclusive, commencing with the numbers east of Jones' Falls: one of said returns to be deposited in the office of the register of the city, and the other in the hands of the mayor, who is hereby authorized and directed to transmit the same to the city council at its session, or adjourned session next ensuing, such returns to him; and if said council shall ratify or confirm said report, then the same shall be final; and the said commissioners before they make the returns aforesaid to the office of the register and the mayor of the city respectively, shall make oath or affirmation according to law before a justice of the peace, who shall certify the same on said returns, that they have faithfully and to their knowledge and ability, performed the duties imposed upon them by the provisions of this ordinance.

3. That in case the report of the commissioners aforesaid shall be ratified and confirmed, the register is hereby authorized and directed to carry out the provisions of the act of Assembly of 1844, c. 282, s. 2, so far as relates to his office; and it shall be the further duty of said register to make a true copy of the return made to him, certified under his hand and the corporate seal of the city of Baltimore, and deliver the same to the clerk of the Superior Court of Baltimore city, to be recorded by him in his office.

4. That said commissioners, or a majority of them, shall make a full report of their proceedings on or before the 25th day of August next, and shall receive a compensation of three dollars for each and every day they may be engaged in the discharge of the duties imposed upon them; and the register is hereby authorized and directed to pay the same, with the approbation of the mayor, together with all other expenses that may be incurred under this ordinance.

Ordinance No. 66, July 1, '68, provides, in terms similar to those of the above ordinance, for taking the census of the city, and for a new division of wards.

The Boundaries of the City, as laid out by the commissioners under the act of 1816, 209, are as follows: Bounded on the north by a line drawn parallel with Baltimore street in the said city, through a point one mile and a half due north from the centre of Baltimore and Calvert streets in the said city, and extending eastwardly seven hundred perches from the said point to a public road passing from the Philadelphia post road, by the dwellings of Amos Loney, Thomas Worthington, and others, and westwardly six hundred and forty perches from the same point; on the east, by a line binding on the east side of said road, to the Philadelphia post road, and from the Philadelphia post road, by a straight line, to the northeast corner of the Lazaretto lot, including said lot, and thence with the lines of said lot to the Patapsco river; on the south by a line drawn from the

LEGISLATIVE DISTRICTS.

51. The city of Baltimore is divided into three several districts, which shall be called First, Second and Third Legislative Districts of Baltimore city.[1] No. 2, Nov. 11. '64, Legislative districts.

The districts shall be composed of wards, as follows: First district.

First district—First, second, third, fourth, fifth, sixth and seventh.

Patapsco river, at the termination of the last mentioned line, to the most southern part of Whetstone Point, on the main branch of the Patapsco river, and running with and bounding on the said main branch, including the land ceded to the United States on Whetstone Point, for the use of a fort, to the place called the Ferry Point, being the junction of the said main branch with the middle branch aforesaid, and thence due west to the western side of the middle branch aforesaid, and on the west by a line running from the termination of the last mentioned line on the western shore of the middle branch, and binding on the said shore, to the north of Gwynn's Falls, thence up and with the southwest side of Gwynn's Falls to a point opposite to the mouth of Gwynn's Run, thence with a straight course to the mouth of Gwynn's Run, and thence with a straight line to the end of the aforementioned six hundred and forty perch line. As to this act and the boundaries of the counties, see *Raab* v. *The State*, 7 Md., 491; *Hammond's lessee* v. *Inloes*, 4 Md., 140. P. G. L., art. 1, s. 10, provides that the boundaries and limits of each of the counties of the State, and of the city of Baltimore, shall remain as now established, (February, 1860.)

[1] The city was divided into three legislative districts under sec. 2 of art. 3 of the Const. 1864, which is as follows: Immediately after the adoption of this Constitution, and before there shall have been held any general election under it, the mayor and city council of Baltimore shall proceed to lay off and divide said city into three several districts of equal population and contiguous territory, as near as may be, which said districts shall be called the first, second and third legislative districts of Baltimore city. The Const. 1867, art. 3, secs. 2 and 4, confirms this division. It provides, by sec. 4, that each of the three legislative districts of the city of Baltimore shall, after the next national census or enumeration of the population of this State, be entitled to the number of delegates in the Legislature to which the largest county shall or may be entitled under the apportionment set forth in said section; and that the General Assembly shall have power to provide by law, from time to time, for altering and changing the boundaries of the three existing legislative districts of the city of Baltimore, so as to make them, as near as may be, of equal population; but said districts shall always consist of contiguous territory. By sec. 2 each legislative district is entitled to one senator. By the act of 1862, c. 228, the second congressional district is composed of Harford county, the fifth, sixth, seventh, ninth, tenth, eleventh and twelfth districts of Baltimore county, and the first seven wards of Baltimore city, and is entitled to choose one representative; and the third congressional district is composed of the wards of Baltimore city, from the eighth to the twentieth, inclusive, and is entitled to choose one representative.

Second district. Second district—Eighth, ninth, tenth, eleventh, twelfth, nineteenth and twentieth.

Third district. Third district—Thirteenth, fourteenth, fifteenth, sixteenth, seventeenth and eighteenth.

CITY OFFICERS.

No. 4, s. 1, R. O. Officers to be appointed annually.

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

No. 19, Mar. 16, '68. Power of removal by mayor.

56. A term of holding shall not be deemed to be created by any resolution or ordinance, so as to affect the power of removal given to the Mayor by article 4, section 26 of the Public Local Laws,[1] because such resolution or ordinance may prescribe that such officer or officers may or shall be appointed annually, or in the month of February, or as other city officers are appointed, or by any other like expression indicating a periodical duty of appointment, and that such words shall not be deemed and taken as otherwise providing by law or ordinance, so as to annul the power of removal intended to be given by said section 26 of article 4, of Public Local Laws.

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

57. Whenever the city councils are in session, any new appointment by the mayor shall be subject immediately thereafter to the confirmation of the council, and when confirmed, the officers so appointed shall enter upon the discharge of the duties of their office on the day succeeding their confirmation.

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

58. It shall not be lawful for any officer of this corporation, whether appointed by the mayor and city council, by the city council in convention, by the mayor alone, or by any board of commissioners, trustees, visitors or building committee, acting under the authority of the mayor and city council, to be engaged or concerned directly or indirectly in

[1] See sec. 28, *ante*, p. 13.

any contract for work done, or to be done, on account of the city, or in which the city is or may be in any way concerned, in the purchase of any debt due from the corporation or claim upon the same for any work done, or to be done, by or under any ordinance of the city, or to be engaged in any contract, directly or indirectly, or concerned in any manner in doing work of any kind, or furnishing of supplies for any institution or office, or receive any per centage on any purchases or contracts in the office with which he may be connected, and any officer offending herein shall be fined in a sum not exceeding five hundred dollars, and it shall be obligatory on the mayor, upon being apprised of any violation of this section, to dismiss forthwith from office any officer who may be guilty of such violation.[1]

Officers not to be concerned in contracts.

Penalty.

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

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

Not to exceed appropriation.

Penalty.

60. The several officers, except in such cases as are provided for in the two succeeding sections, shall give bond with security to the mayor and city council of Baltimore, for the faithful performance of their respective duties, in such penal sums as the mayor may direct, except where particular sums are specified by ordinance.

No. 4, s. 5, R. O.

To give bond.

61. The several officers who are not entitled to compensation for their services shall not be required to give bond for the faithful performance of their duties, unless the mayor shall think it expedient to require the same.

No. 57, May 30, '61.

Officers without compensation.

No bond required.

62. The several officers whose compensation shall not exceed two hundred dollars per annum, shall not be required to give bond for the faithful performance of their duties, unless the mayor shall think it expedient to require it.

Ibid, s. 2.

Officers of two hundred dollars pay.

Not required to bond.

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1 See sec. 5 Const. *ante*, p. 4.

No. 58, July 20, '63.
Extra compensation not to be allowed.

63. No extra compensation shall be granted or allowed by the mayor and city council to any officer, agent or servant of the corporation, or of any other corporation the expenses of which are borne in whole or in part by the city, after the services have been rendered, nor shall the salary or compensation of any of said officers, agents or servants be increased or diminished during the term for which they may be or may have been elected, appointed or employed; provided, that should an increase of duties be required by any subsequent ordinance or resolution of the mayor and city council, an extra compensation in proportion for the increase of labor, to the original compensation, may be allowed, in the discretion of the said mayor and city council.[1]

Salary, &c. not to be increased or diminished.

Proviso.

Ibid, s. 2.
Extra compensation not to be allowed to any contractor.

64. No extra compensation shall be granted or allowed by the mayor and city council to any contractor or contractors with the city, or with any corporation the expenses of which are in whole or in part borne by the city, after the contract has been entered into; provided, that in case a contractor or contractors shall be prevented by an act of the mayor and city council, or any agent or servant thereof acting under their authority, from fulfilling his contract as agreed on, and loss is thereby sustained by him or them, such extra compensation may be allowed as will compensate him or them for said loss incurred as aforesaid.

Proviso.

May be allowed.

No. 11, Feb. 28, '66.
Eight hours a legal day's work.

65. No employee in any of the departments of this corporation shall be required to labor, or render more than eight hours service per day, and that said eight hours labor, or service rendered, shall constitute and be accepted by this corporation as a legal day's labor.

Ibid, s. 2.
No reduction to be made.

66. No reduction shall be made in the wages of any person who now is, or may hereafter be employed in any of the

[1] This ordinance recites the provision, sec. 23 of art. 3 of Const. 1864, (now sec. 35 of art. 3 of Const. 1867,) that no extra compensation shall be granted or allowed by the General Assembly to any public officer, agent, servant or contractor after the services have been rendered or the contract entered into; nor shall the salary or compensation of any public officer be increased or diminished during his term of office.

departments of this corporation, on account of the reduction made in the hours of labor.

67. The salary or wages paid to any employee of this corporation, in any of its departments, shall be the same as they now receive, and until the same shall be changed by the mayor and city council; provided that nothing contained in this ordinance shall be so construed as to apply to mechanics or working men in the employ of any person or persons having contracts under the city. Ibid, s. 3. Wages to be the same. Proviso.

68. The salaries of all officers of the corporation, unless otherwise directed by law, shall be paid on the first Monday of each and every month.[1] No. 5, s. 3, R. O. When salaries paid.

CITY CONTRACTS.[2]

69. 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 officer 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, whose security for the execution of the work according to contract, or the performance of 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 contract 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 No. 2, Mar. 8, '58. Proposals to be laid before the mayor. Mayor, comptroller and register to award contracts. Proviso.

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

[2] As to contracts by city, see *Rittenhouse* v. *Mayor, &c.*, 25 Md. 336.

contract he may have been engaged in with the corporation of Baltimore.

Ibid, s. 2. Proposals—time and place of opening.

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

No. 8, s. 11, R. O. Bond from contractor.

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

No. 9, s. 4, R. O. truty of comp- Doller.

72. The comptroller shall examine all contracts made by the city officers, and he shall report within thirty days after the meeting of the council in an annual session, all contracts made by the corporation as directed or authorized by the council, and not performed or completed or upon which any money remains unpaid, with the amount of money remaining unpaid on each.[1]

RECORDS OF THE CITY.

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

73. It shall be the duty of all city officers carefully to file and keep, having first recorded the same, all public papers whatever, belonging to the city, which are now in or may hereafter come into their respective offices, and which appertain to the same; and it shall not be lawful for any register or clerk to permit any paper or record in his office to be taken therefrom, by any person or persons whatever, unless the same be demanded by a court of justice of this State, or of the United States, or by either branch of the city council, but every person wanting the information contained in such papers or record, shall be entitled to a copy of the same; and it shall be the duty of the register or clerk to furnish such copies when applied for, and the register or clerk shall

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

Copies to be furnished.

[1] Under the above section, contracts can be made by certain city officers, and it may be in certain cases by the mayor, yet if they are to be regarded as "contracts made by the corporation," they must be made "as directed or authorized by the council," otherwise they will not have obligatory force to bind the corporation.—*Mayor, &c. Balt.* v. *B. & O. R. R. Co.*, 21 Md. 52. See note *ante*, p. 4.

charge and receive therefor the sum of fifteen cents for every sheet of copy containing one hundred words, and so *pro rata* for every search, and for every certificate to a copy, twenty-five cents, which fees or charges shall be paid into the treasury of the city. Fees for same.

74. The register shall take under his charge and keeping all the records, papers and proceedings of the corporation,[1] except those relating to titles of city property; all the ordinances, resolutions, votes and proceedings of the city council, after each and every session; and shall record, or cause to be recorded, in a book or books, all appointments of each and every officer of this corporation. No. 8, s. 6, R. O. Register keeper of records, &c.

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

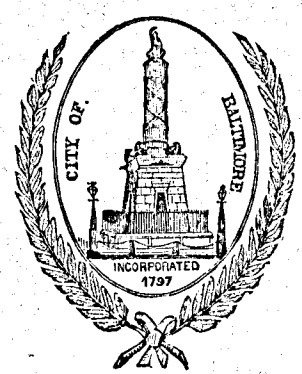
SEAL.

76. The seal heretofore provided and used, the impression on which is a representation of the Battle Monument, is hereby established and declared to have been and now to be the seal of the mayor and city council of Baltimore. No. 1, R. O. Seal.

77. The register shall take under his charge and keeping the corporate seal of the city, and use it in all cases which now are or may hereafter be required, either by the laws of the United States, the several States, the ordinances of this corporation, or the usage and customs of nations, whenever No. 8, s. 5, R. O.; No. 28, May 6, '65. Keeper of the seal.

[1] The register of the city has *ex officio* custody of the public books, &c.—*Giraud's lessee* v. *Hughes*, 1 G. & J. 249.

applied to for that purpose; and for each and every seal which he shall affix to an instrument or instruments of writing, he shall be entitled to receive for the use of the city, the Fees. sum of two dollars; except that in cases where the certificate of the register under seal shall be required to be used as evidence in the claims of soldiers and seamen in the United States service, or in the claims of the widows or heirs of such as may have died, or may hereafter die in the service, he shall furnish such certificate without any charge whatever.



ARTICLE II.

ALIEN PASSENGERS.

STATUTES.

1. Commanders of vessels to report age and occupation of aliens to mayor or register: penalty for neglect.
2. To give bond to indemnify city from support of: penalty.
3. Amount and security of bond.
4. Stock may be pledged or money deposited in lieu of bond.
5. Approval by mayor.
6. Commander may commute for bond.
7. Penalty for landing passenger out of city.
8. Penalties and forfeitures: how recovered.
9. Mayor may compound for or remit.
10. Commutation money: how distributed.
11. Fines: how distributed.
12. Compensation of register.
13. Persons excepted.

STATUTES.

P. L. L., art. 4, sec. 250. Commander of vessel to report age and occupation of aliens to mayor or register.

1. The master or commander of any vessel arriving from a foreign country, or from any other of the United States, who shall enter said vessel at the custom house in the city of Baltimore, shall, within twenty-four hours after such entry, make a report in writing on oath to the mayor or register of said city, of the name, age and occupation of every alien who shall have been brought or carried as passenger in such vessel, on that voyage, upon pain of forfeiture for every neglect or omission to make such report, of the sum of twenty dollars for every such passenger neglected or omitted to be so reported.[1] Penalty.

[1] The original act is 1832, c. 203. Its preamble recites that the frequent arrivals of passengers at the port of Baltimore have introduced into that city a great number of paupers, who have become charges upon the city and county, and upon the several associations in said city, incorporated by the State for the relief of foreign emigrants to the United States; and that a large proportion of the passengers in the various ships are paupers, and are, as such paupers, embarked, it is believed, under the direction of public authorities of foreign countries;

Ibid, sec. 251.
Bond to indemnify city from support of passengers.

2. The mayor of the city of Baltimore, or other person discharging the duties of his office, shall require the owner or consignee of every vessel arriving from a foreign country, or from any other of the United States, which shall be entered in said custom house, upon pain of forfeiture to the mayor and city council of twenty dollars for every neglect or omission, to give a several bond to the State of Maryland in the penalty of three hundred dollars, for each passenger included in the report of the master or commander of such vessel directed to be made by the preceding section, and conditioned to indemnify and save harmless each and every city, town and county in this State from any cost which such city, town or county shall incur, for the relief or support of the person named in the bond, within five years from the date of the bond, and also to indemnify and refund any charge or expense such city, town or county may necessarily incur for the support or medical care of the person named therein, if received into the alms-house or hospital, or any other institution under their care.

Penalty.

Ibid, sec. 252.
Amount and security of bond.

3. Every such bond shall be signed by two or more sufficient securities, residents of the State of Maryland, each of whom shall prove, by oath or otherwise, that he is owner of a freehold in the said State of the value of three hundred dollars over and above all claims or liens thereon or against him, including any contingent claim which may accrue from or upon any former bond given under the provisions of this law.

Ibid sec. 253.
Stock may be pledged or money deposited in lieu of bond.

4. If the principal in said bond choose, instead of the security required in the preceding sections, he may secure said bond by mortgage of real estate, or by the pledge and

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and that it is right that the evil in question should be remedied or alleviated as far as practicable. Supplemental acts are, 1833, c. 177; 1834, c. 84; 1841, c. 174; 1849, c. 46.

The associations for succor of immigrants are, for the Germans, the German Society, formed in 1784; for the Irish, the Hibernian Society, formed in 1803; for the Scotch, the St. Andrew's Society, formed in 1806, and for the English, the St. George's Society, incorporated by 1867, c. 46; and for the French, the French Society. Immigration is provided for by Const., art. x., sec. 3, and 1866, c. 37, 1867, c. 172, and 1868, c. 300.

transfer of public stock of the United States, or of the State of Maryland or of the city of Baltimore, or by deposit of the amount of the penalty in some bank, subject to the order of the mayor of the city.

Ibid, sec. 254. Approval by mayor.

5. Any security, whether real or personal, offered by such owner or consignee, shall first be approved by the mayor of the city.

Ibid, sec. 255. Commander may commute for bond.

6. The owner or consignee of any vessel, may at any time within three days after the landing of such passengers, commute for the bond or bonds hereinbefore required, by paying to the register of the city the sum of one dollar and fifty cents for each and every passenger reported as hereinbefore required by this article, and the receipt of such sum by the register shall be deemed a full and sufficient discharge from the requirement of giving such bonds.

Ibid, sec. 256. Penalty for landing passengers out of city.

7. If any alien passenger in such vessel shall be suffered to land therefrom at any place within the distance of fifty miles from said city, with the intent to proceed thereto otherwise than in said vessel, the master or commander thereof shall forfeit and pay for every such person the sum of one hundred dollars, unless within forty-eight hours after the entry of the vessel the owner or consignee shall give the bonds or pay the commutation money aforesaid.

Ibid, sec. 257. Penalties and forfeitures; how recovered.

8. All or any of the said penalties and forfeitures, as well as the said commutation money, may be sued for in the name of the mayor and city council of Baltimore before any justice of the peace, in the same manner and subject to the same rules and process and the right of appeal as provided in cases of small debts.

Ibid, sec. 258. Mayor may compound for, or remit.

9. The mayor may compound for or remit the said penalties and forfeitures, and payments and recoveries, or any of them, either before or after suing for the same, upon such terms as the circumstances of the case may in his judgment require.

Ibid, sec. 259.

10. The mayor and register shall pay over to the trustees for the poor of Baltimore city semi-annually three-fifths of

Commutation money; how distributed.

all sums of money arising from commutation by owners or consignees of vessels as aforesaid, which shall be appropriated by said trustees to the use of the city of Baltimore for the purpose of supporting the foreign paupers of the said city, and the remaining two-fifths shall be paid to the Hibernian Society of Baltimore and the German Society of Maryland in the proportions mentioned in the next succeeding section.

Ibid, sec. 260. Fines; how distributed.

11. All money received by the mayor or register for penalties and forfeitures imposed by this law shall by the mayor and city council be distributed and paid as follows: two-fifths thereof to the German Society of Maryland and the Hibernian Society of Baltimore, to be divided between them as follows: to the German Society in proportion to the amount received from and on account of German and Swiss passengers, and to the Hibernian Society in proportion to the amount received from and on account of Irish passengers: and the remaining three-fifths to the trustees of the poor for Baltimore city.

Ibid, sec. 261. Compensation of register.

12. The register of the city shall be entitled to two per centum upon the amount of money collected under this law.

Ibid, sec. 262. Persons excepted.

13. Nothing herein contained shall be deemed to extend to any ambassadors, ministers, consuls or agents of foreign governments arriving as passengers in the port of Baltimore.

ARTICLE III.

ALMS-HOUSE.

STATUTES.

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

ORDINANCE.

Payments to trustees.

STATUTES.

1. The mayor and city council have power to provide by ordinance for the appointment, as other city officers are appointed, of the trustees of the poor, of Baltimore city, and to prescribe the powers and duties of such trustees; provided, that until the mayor and city council shall have acted in the premises, the powers and duties of the trustees of the poor

P. L. L., art. 4, sec. 34.
1868, c. 1, Trustees of the poor; how appointed. Proviso.

of Baltimore city shall be such as are prescribed in and by those sections of this article, under the title almshouse, not hereby repealed; and provided further, that when the said mayor and city council shall have, by ordinance, prescribed the powers and duties of the trustees of the poor of Baltimore city, then, and in that event, the operation of the sections of this article, from thirty-nine to sixty-nine inclusive, shall cease, and the said sections, from thirty-nine to sixty-nine inclusive, shall be *ipso facto* repealed.[1]

Proviso.

Ordinance to be passed.

Effect of same.

1868, c. 1; Ibid, sec. 35. Title to property.

2. All titles to property of any and every kind now held by the trustees of the poor of Baltimore city are hereby transferred to and invested in the mayor and city council of Baltimore to all intents and purposes, and all powers and privileges heretofore conferred upon the said trustees of the poor of Baltimore city are hereby transferred to and conferred upon the mayor and city council of Baltimore.

Powers and privileges.

1868, c. 1; 1862, c. 279; art. 4, P. L. L., sec. 37.

3. Each trustee so appointed shall, before he proceeds to act, take and subscribe before the mayor the oath of office prescribed in the sixth section of the first article of the constitution; and he shall then be qualified and competent to perform all the duties of trustee.[2]

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[1] 1868, c. 1, is entitled "an act to repeal sections thirty-four, thirty-five, thirty-six, thirty-seven and thirty-eight of the fourth article of the Code of Public Local Laws, relating to the city of Baltimore, and to substitute in lieu of sections thirty-four, thirty-five and thirty-seven the following." It then repeals sections 34, 35, 36 and 37 of the article, and enacts that the above be substituted for sections 34, 35, 37, 39, 58 and 61 of the Code, and enacted substitutes therefor.—1868, c. 1, further provided that it should take effect upon its passage, (from January 22, 1868,) and that the said mayor should immediately appoint trustees of the poor of Baltimore city, as in case of a vacancy, under the existing laws and ordinances.

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

4. They shall keep a book, in which shall be entered the minutes of their proceedings, and the certificate of each trustee having taken and subscribed the oath mentioned in the preceding section. Ibid, sec. 38. Book of minutes.

5. They, or a majority of them, shall have power to appoint all such officers, clerks, agents and servants as they may think necessary, and at their pleasure to remove and discharge the same. Ibid, sec. 40. Appointment of officers, clerks, &c.

6. They shall fix and prescribe the duties of all such officers, clerks, agents and servants, and fix and determine their compensation. Ibid, sec. 41. Their duties: compensation.

7. They may admit into the alms-house and receive under their care, in addition to those paupers[1] which the laws of this State authorize or require, such indigent or distressed persons as in their opinion the dictates of humanity or particular circumstances render proper or necessary. Ibid, sec. 42. Mode of admitting inmates.

8. They shall prescribe, provide for, and direct all matters relating to the support, treatment and employment of all paupers, vagrants and other persons in the alms-house, or any other place under their care and charge. Ibid, sec. 43. Support and employment of inmates.

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

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

11. They may appoint a purveyor of provisions to said alms-house, whose duty it shall be to provide and furnish Ibid, sec. 46. Purveyor of provisions.

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governor, senator, member of the house of delegates, or judge,) that I will not directly or indirectly, receive the profits or any part of the profits, of any other office during the term of my acting as ——.

[1] Public General Laws, art. 58, provides for the sending of lunatic or insane paupers to the alms-house of the county or city to which they belong.

provisions to said alms-house under the direction of said trustees, to whom he shall annually return a statement or account of his receipts and expenditures, to be examined and passed at their discretion.

Ibid, sec. 47. His bond.

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

Ibid, sec. 48. Salary.

13. They may allow a salary to said purveyor not exceeding four per cent. upon the amount of money expended by him under their direction.

Ibid, sec. 49. Overseer.

14. They shall meet at the alms-house on the first Monday of May yearly, and appoint an overseer of said alms-house.[1]

Ibid, sec. 51. His bond.

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

Ibid, sec. 52. List of inmates. Accounts of expenditures and receipts.

16. The overseer shall keep a regular list of all poor, beggars, vagrants, vagabonds and other offenders, who shall be committed to said alms-house, and also regular accounts in writing of all materials and other things which may come to his hands, and of all expenses and charges attending their maintenance and support, and of all moneys received by him for the sale of the produce of their labor, and otherwise, as overseer, and shall lay the same before the trustees when required.

Ibid, sec. 53. Inmates to work.

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

[1] 1861, c. 27, repealed sec. 50 of art. 4, authorizing the payment of a salary to the overseer of the alms-house.

18. Every pauper who shall be under the care of said trustees, except females under the age of twelve years and males under the age of fifteen, shall be charged as a debtor for food, medicine and other necessaries furnished, at a rate not exceeding thirty cents per day; and every such pauper, when capable of performing labor or service, may, in the discretion of the trustees, be required and compelled to perform the same, and shall be allowed a reasonable compensation according to the value thereof, to be ascertained and fixed by the said trustees and credited to the account of the pauper performing such work, labor or services; and the trustees may retain such pauper under their care until the charges against them, and the compensation so allowed, shall balance; and if any pauper shall depart from the alms-house without the permission of the said trustees before he shall have compensated by work, labor or services as aforesaid, or otherwise, for the charges against him, he shall be guilty of a misdemeanor, and on conviction thereof in the Criminal Court of Baltimore, shall be sentenced to work and labor under the direction of the trustees for the poor of Baltimore city and county, for a period of time in the discretion of said court not exceeding twelve months; and a certificate under the corporate seal of said trustees that any person has so departed indebted, and without permission, shall be sufficient evidence to authorize any judge or justice of the peace to issue a warrant for the arrest of such person, and to bind over or commit him for trial as in other cases of misdemeanor.

Ibid, sec. 54. Accounts with inmates. Inmates to be retained till accounts balanced. Leaving without permission. Penalty. Certificate, evidence.

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

Ibid, sec. 55. Dismissal of inmates.

20. Any one trustee may, under his hand in writing, direct the admission of any pauper into said alms-house.

Ibid, sec. 56. Admission.

21. The said trustees shall meet at the alms-house four times in the year, to-wit: in the first week of February, May,

Ibid, sec. 57. Times of meeting of trustees.

August and November, or oftener if they shall deem it necessary; and make and ordain by a majority of votes of such as may be present, all such good and wholesome ordinances, rules and by-laws as they may think necessary and convenient for the maintenance and employment of the inmates of said alms-house.

1862, c. 279; Ibid, sec. 58. Punishment of paupers.

22. Upon complaint made to said trustees, by the overseer of said alms-house, and due proof made thereof, that any pauper in said alms-house has behaved in a disorderly manner, or has neglected to obey and keep any of the ordinances, rules and by-laws of the said corporation, the said trustees may order and direct such moderate and proper correction for any such offence, as the nature of the case may require.[1]

P. L. L., art. 4, sec. 59. Per diem of trustees.

23. The said trustees shall be entitled to receive the sum of two dollars per day for each day they shall meet together in the discharge of their duties.

Ibid, sec. 60. Penalty for selling liquor, &c.

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

1862, c. 279; Ibid, sec. 61. Badges to be worn by inmates. Penalty for refusing to wear.

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

P. L. L., art 4, sec. 62. Penalties and forfeitures; how recoverable.

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

Ibid, sec. 63. What officers to assist trustees.

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

Ibid, sec. 64. Suits.

28. If any person shall at any time be sued or prosecuted for any thing done in pursuance of this law, or any thing

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1 P. L. L., art. 4, sec. 58, relating to punishment by whipping, is repealed by 1862, c. 279.

therein contained, he may plead the general issue and give the special matter in evidence; and if upon trial, verdict shall be found for the defendant, or if the plaintiff shall be non-suit or discontinue, the defendant shall recover treble costs, and if the plaintiff shall be unable to pay them, they shall be paid by the attorney who brought the suit, unless the plaintiff shall give security for the costs to be approved by the court.[1] Costs.

29. The mayor and city council shall, at their annual session, appoint one sensible and discreet inhabitant residing in each ward of the city to be a manager of the poor in the ward in which he shall reside, who shall take an oath before some justice of the peace for said city that he will well and faithfully perform the duties of a manager of his ward according to the best of his knowledge and judgment. Ibid, sec. 66. Ward managers of the poor.

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

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

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

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[1] Art. 4, sec. 65, provided that the alms-house property, then jointly owned by Baltimore city and Baltimore county, until sold under the act of Assembly, 1853, c. 253, should continue to be jointly used and occupied by the said county and city, under such regulations as the said trustees should from time to time agree upon and prescribe, unless by the joint consent of the county commissioners of said county, and the mayor and city council of Baltimore, any change in the use and occupation should be made; power and authority to make which change was thereby vested in the county commissioners and the mayor and city council.

This section is now obsolete, as the alms-house property referred to was sold by joint commissioners, July 19, 1858, and the sale ratified and confirmed by

ORDINANCE.

No. 70, June 5, '58.
How payments made to trustees of poor.

The register is authorized and directed to pay to the trustees of the poor of Baltimore city, each and every year, all such sums of money as they may require, not exceeding the amount levied for the poor tax of each year, at such times as they may require, in anticipation of the collection of said tax, out of any money in the treasury not otherwise appropriated.

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ordinance No. 46, approved Sept. 23, 1858, under the act of 1853, c. 253, above recited. It was, however, under lease by the city at the time of the adoption of the Code, February, 1860. 1864, c. 293, provided for the appointment by the county commissioners of Baltimore county, of a visitor of the alms-house, under the charge of the trustees of the poor of Baltimore city, to look after paupers belonging to said county, and boarded in said institution.

The present Baltimore city alms-house, (named by Res. No. 81, May 6, '65, "Baltimore Bayview Asylum,") was erected under the provisions of ordinances No. 40, approved May 20, '62, No. 49, July 16, '62, No. 25, March 26, '64, No. 35, June 7, '65, and No. 3, Feb. 16, '66, and Res. Nos. 5, Dec. 2, '58; 37, Dec. 16, '58; 146, June 9, '64, and 189, Oct. 23, '65. The site was purchased from the Canton Company of Baltimore, and the alms-house is situate near Eastern avenue and Shor's lane. Ordinance No. 21, April 28, 1860, providing for the purchase of property for an alms-house, near the Philadelphia turnpike road, was repealed by ordinance No. 10, April 5, '61. See *Rittenhouse* v. *Mayor, &c.*, 25 Md., 336. After the separation of the city from Baltimore county, the alms-house in Baltimore county was leased temporarily, under ordinances Nos. 311 and 335, Sept., '60.—See note, *ante*, p. 8.

ARTICLE IV.

ASSAULT AND BATTERY.

STATUTES.

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

STATUTES.

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

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

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

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

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

Ibid, sec. 157. Presentment or indictment.

ARTICLE V.

ASSAYER OF SILVER PLATE.

STATUTES.

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

STATUTES.

P. L. L., art. 4, sec. 70. Mayor and council to appoint assayer.

1. The mayor and city council of Baltimore shall appoint an able and skilful man, experienced in assaying silver, as assayer for said city.

Ibid, sec. 71. Oath of office.

2. The person so appointed shall, before entering upon the duties of his office, take the following oath: I, A. B., do swear that I will, so long as I continue assayer, well and faithfully behave myself in said office, and justly and impartially decide all matters which may be submitted to me as assayer, according to my best judgment and experience, and no undue profit to myself take to the hurting or hinderance of any person, either purchaser or seller, of any article of manufactured silver to be assayed, and will true account make of all acts done by me in virtue of my office of assayer, whenever I shall be required so to do by the mayor and city council of Baltimore, so help me God.

3. He shall enter into bond to the mayor and city council in such sum and with such security as they shall require for the true and faithful performance of the duties imposed upon him by law. Ibid, sec. 72. Bond.

4. No assayer shall be concerned or any wise interested in the manufacturing or sale of silver plate, or manufacture of silver within the city or precincts of Baltimore, under the penalty of the forfeiture of his office and of his official bond. Ibid, sec. 73. Not to be concerned in sale or manufacture of silver.

5. The stamp which shall be used by the assayer for the marking or stamping of silver vessels, plate, or manufacture of silver, shall be numbers corresponding with the number of ounces, pennyweights and grains of pure silver contained in such articles to every pound troy. Ibid, sec. 74. Stamp prescribed.

6. The said stamp shall be approved by the mayor and city council, and it shall be the duty of the assayer, whenever required by the said mayor and city council, to produce for their inspection the stamp so used by him, and on failure his office shall be vacated or a fine imposed upon him, at their discretion. Ibid, sec. 75. Mayor and council to approve stamp.

7. If any person shall cast, forge or counterfeit, or cause to be cast, forged or counterfeited, the stamps or marks of the assayer, or shall mark or stamp, or cause or procure to be marked or stamped, any wrought plate of silver, or any wares of brass or other base metal silvered over or resembling silver, with any stamp or mark which hath been or shall be forged or counterfeited, in imitation of or to resemble any stamp or mark of said assayer, or shall transpose or remove, or cause or procure to be transposed or removed, from one piece of wrought plate to another, or to any plate of such base metal as aforesaid, any stamp, mark or impression which may be made by or with the said assayer's stamp or mark, or shall sell, exchange or expose, or offer for sale or exchange, any wrought plate of silver, or any vessel of such base metal as aforesaid, with any such forged or counterfeited stamp, mark or impression thereon, or any stamp, mark or impression which hath been transferred or removed from any Ibid, sec. 76. Forging or counterfeiting stamp or marks, &c.

other piece of plate, knowing such stamp, mark or impression to be forged, counterfeited or transposed, or removed as aforesaid, or shall wilfully or knowingly have or be possessed of any mark or stamp which hath been or shall be forged or counterfeited in imitation of and to resemble any mark or stamp of said assayer, he shall, upon conviction thereof, forfeit and pay the sum of five hundred dollars, to be recovered by action of debt in the Criminal Court of Baltimore, in the name of the mayor and city council of Baltimore, one-half thereof to the mayor and city council for the use of the city, and the other half to the use of the informer, and shall be committed by the court to the penitentiary of the State of Maryland, there to remain and to be kept at hard labor for any time not exceeding the space of five years, nor less than one year, and until payment be made of the said forfeiture.

Penalty.

Ibid, sec. 77. When manufacturer may sell without stamp.

8. It shall be lawful for any manufacturer or manufacturers of silver ware in said city, to sell, exchange, expose or offer to sell or exchange, any silver vessel or plate, or other manufacture whatsoever, by himself or themselves, manufactured within the said city, without requiring the stamp or mark of the assayer thereupon; provided, that every vessel or plate or other manufacture of silver thus sold, exchanged or exposed, or offered for sale or exchange, which shall be over the weight of five pennyweights, shall be stamped with the name or names of the manufacturer or manufacturers, and also the numerical figure or figures corresponding with the fineness thereof, under the penalty of twenty dollars for each and every article which shall not be so stamped.

Penalty.

Ibid, sec. 78. Name of manufacturer to be stamped.

9. It shall be lawful for any person or persons who may not be manufacturers of silver ware, to sell, exchange or expose, or offer to sell or exchange in said city, any silver vessel, plate or other manufacture of silver whatsoever not manufactured within the said city, and having thereon the name or names of the person or persons so selling, exchanging or offering to sell, or exchange the same, together with the numerical figures corresponding to the fineness thereof;

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

10. If any purchaser or purchasers of any vessel, plate or other manufacture of silver in said city shall believe that the stamp or mark designating by a numerical figure or figures the fineness thereof, is a false and deceptious mark or stamp, and does not truly designate the fineness thereof, he may apply and complain to the assayer, who shall assay the article and decide and declare the fineness thereof. Ibid, sec. 79. False mark or stamp.

11. If the assayer, upon application and complaint as aforesaid, shall decide that the said mark or stamp, designating by a numerical figure or figures the fineness of the silver article in question before him, is a just and true mark, fairly designating the fineness thereof, the purchaser making the complaint shall pay to the assayer ten cents for every ounce of silver plate or manufactured silver assayed. Ibid, sec. 80. When purchaser to pay cost to assayer

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

13. All fines and penalties incurred for violating the provisions of this article relating to the assaying of silver plate Ibid, sec. 82.

How fines and penalties recoverable.

shall be recoverable before a justice of the peace, as small debts are recoverable, in the name of the mayor and city council of Baltimore, the one-half thereof to the said mayor and city council for the use of the city, and the other half for the use of the informer.

Ibid, sec. 83. Not to extend to any but traders.

14. Nothing herein contained shall be construed to extend to those who do not deal in silver ware, plate or manufacture thereof, in the way of trade.

ARTICLE VI.

AUCTIONS.

STATUTES.

1. What property subject to auction duties.
2. Rates of duties.
3. Rates of duties.
4. How calculated.
5. What property exempt from duties.
6. Duties on realty: a lien.
7. Purchaser may pay out of purchase money.
8. Property to be struck off to highest bidder.
9. Governor to appoint auctioneers.
10. Bond of auctioneer to sell under $150,000: license fee to treasurer.
11. What general auctioneer may sell: to what amount; quarterly returns to comptroller: penalty.
12. Bond to sell over $150,000; license fee.
13. To sell books, maps and prints: license fee.
14. To sell horses and carriages: license fee.
15. How license may be issued.
16. Partner or representative may act in case of death.
17. Bonds; how taken and recorded: fee to clerk of court.
18. When treasurer to issue license.
19. Selling without authority: penalty.
20. Selling without bond or license: penalty.
21. Without proper license: penalty.
22. Commission void without license.
23. Bond to be renewed.
24. When treasurer may require new security.
25. Appointment void, if auctioneer accept appointment from another State.
26. Auctioneer to designate partners, &c.: penalty.
27. Mayor to designate where horses and carriages may be sold, &c.
28. Auctioneer to keep registry of horses sold: where to be deposited.
29. Rates of commissions allowed for selling books, maps and prints.
30. Rates for selling under $150,000.
31. For selling over $150,000: exception.
32. Higher rates than authorized: penalty.
33. No person but employee to sell: places at which sales may be made.

34. Penalty for selling at other places.
35. Auctioneers to render account to comptroller.
36. Auctioneer's oath to account: certificate.
37. Penalty for failing to make returns: proviso: evidence.
38. Auctioneer making no sales, to make affidavit.
39. Governor to appoint no auctioneer whose accounts are unsettled.
40. Fraud or deceit: penalty.
41. Prosecution: penalties recovered.
42. Perjury: penalty.
43. What amount of auction duties appropriated to deepening channel and harbor: to be paid mayor and council.
44. Mayor and council to account to comptroller.
45. Excess over $20,000.
46. Proviso: wharfage.
47. Who may sell without license.

ORDINANCES.

1. Register to draw on treasurer: to account to comptroller.
2. Holding auctions without permission: penalty: when mayor may grant permit.

STATUTES.

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

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

Ibid, sec. 86; 1868, c. 171. Rates of duties.

2. All real estate and vessels, all wines and ardent spirits, foreign or domestic, all goods, wares, merchandise and effects imported from any place beyond the Cape of Good Hope, all stocks 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 coffee, tea, sugar and molasses, foreign or domestic, at the rate of ten cents on every hundred dollars.

Ibid, sec. 87; 1868, c. 171. 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, which shall only be subject to a duty of ten cents on every hundred dollars.

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

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

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

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

Ibid, sec. 90. Duties on realty; a lien.

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

Ibid, sec. 91. Purchaser may pay out of purchase money.

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

Ibid, sec. 92. Property to be struck off to highest bidder.

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

Ibid, sec. 93. Governor to appoint auctioneers.

9. The Governor, by and with the advice and consent of the Senate, shall biennially appoint as many auctioneers in the city of Baltimore as he may think proper; not exceeding twenty.[1]

[1] For auctioneer of Tobacco, under 1868, c. 458, see art. —, Inspections *p*

10. Each person so appointed, the amount of whose sales of goods, wares, merchandise and personal property of every kind, exclusive of his real estate sales and sales of houses, shall not exceed the sum of one hundred and fifty thousand dollars, shall, before entering upon the duties of his office, enter into a recognizance to the State, with two sufficient securities, in the sum of five thousand dollars, conditioned for the payment of the duties hereinbefore mentioned to the treasurer of Maryland, and that he shall in all things well, truly and faithfully behave and conform himself according to the true intent and meaning of this law, and shall also pay to the treasurer of Maryland the sum of four hundred and fifty dollars as a license fee.[1]

Ibid, sec. 94.
Bond of auctioneer to sell under $150,000.
License fee to treasurer.

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

Ibid, sec. 95.
What general auctioneer may sell.
To what amount.
Quarterly returns to comptroller.

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

As to the right of persons interested to sue on bonds taken in name of State, see *Ing* v. *State*, 8 Md., 295; *State* v. *Wyman*, 2 G. & J., 254; *State* v. *Bryan*, 3 Gill, 388; *State* v. *Norwood*, 12 Md., 193; P. G. L. art. 16, sec. 108; art. 18, sec. 34.

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

Penalty.

Ibid, sec. 96. Bond to sell over $150,000.

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

License fee.

Ibid, sec. 97. Bond to sell books, maps and prints,

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

License fee.

Ibid, sec. 98. Bond to sell horses and carriages.

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

License fee.

Ibid, sec. 99. How license may be issued.

15. A license may, on the request or with the consent of the party, be issued by the treasurer, *nunc pro tunc*, so as to avail him for a year from the day on which his license expired, or in such manner as to avail him for any part of the interval the applicant may desire, but no license issued under this section shall acquit the party obtaining it of any penalty hereby imposed for selling without license, if prosecution therefor shall have commenced before such license was obtained.

16. In case of the death of any auctioneer before the time limited in his license expired, his copartner, or copartners, if he has any, or his personal representative, may continue to act under the license for the unexpired time. Ibid, sec. 100. Partner or representative may act in case of death.

17. All recognizances directed to be taken by this law shall be taken by the clerk of the Court of Common Pleas, and duplicates shall be made of the record of every such recognizance by said clerk, one whereof shall be delivered, or be caused to be delivered, by such auctioneer to the treasurer within ten days after the date of such record, and the other shall be retained by said clerk, who shall be entitled to demand for the same from the auctioneer the sum of one dollar. Ibid, sec. 101. Bonds, how taken and recorded. Fee to clerk of court.

18. The treasurer, on his being satisfied that the recognizance herein required has been entered into by any of the persons appointed auctioneers by the Governor, and upon his receiving the license fee hereby required from such person, shall issue a general or special license to such person as the person may be entitled to, for the term of one year from the date of such license. Ibid, sec. 102. When treasurer to issue license.

19. If any person or persons not appointed and authorized in the manner herein directed, nor by, nor under the authority of the United States, shall sell or attempt to sell any goods, wares, merchandise or effects, real estate, or vessels in the city of Baltimore, he shall be considered guilty of a misdemeanor, and shall be subject to presentment and indictment, and shall, on conviction, be fined in a sum not exceeding five hundred dollars, or imprisoned for a term not exceeding three months, or both, at the discretion of the court. Ibid, sec. 103. Selling without authority. Penalty.

20. If any auctioneer shall sell any goods, wares, merchandise or effects, or real estate, or vessels, by way of public auction, without having entered into recognizance and paid the license fee hereby required, he shall forfeit the sum of fifty dollars for each and every article exposed to sale, to be recovered by any person suing for the same before any justice of the peace for the city of Baltimore. Ibid, sec. 104. Selling without bond or license. Penalty.

Ibid sec. 105. Selling without proper license.

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 forfeit for every such article so sold the sum of fifty dollars, to be recovered by any person suing for the same before any justice of the peace for the city of Baltimore, or by indictment in the Criminal Court.

Penalty.

Ibid, sec. 106. Commission void without license.

22. If any person commissioned as auctioneer shall neglect to take out a license within twenty days after his commission shall have been forwarded to him by the Governor, such commission shall be deemed null and void, and the Governor shall appoint some other person to supply the vacancy in the number of auctioneers caused by such neglect.

Ibid, sec. 107. Bond to be renewed.

23. The recognizance herein required shall be annually renewed.

Ibid, sec. 108. When treasurer may require new security.

24. If any security or securities entered into by any auctioneer shall remove from this State or become insolvent, the treasurer shall demand other security or securities in his or their place, and if the auctioneer shall neglect or refuse to give other security within three days after such demand is made, his license shall thenceforth be null and void to all intents and purposes as if the same had never been granted, and the treasurer shall immediately give public notice thereof in two or more public newspapers published in said city.

Ibid, sec. 109. Appointment void if auctioneer accept appointment from another State.

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

Ibid, sec. 110. Auctioneer to designate partners, &c.

26. Every auctioneer in said city shall designate in writing his partner or partners, if any are engaged with him in his said business, and the houses or stores occupied by him for the transaction of auction business, and shall deposit such writing with the treasurer; and if any auctioneer in said city shall enter upon the duties of his office before so doing, he shall be deemed guilty of a misdemeanor, and on conviction shall be fined in a sum not exceeding five hundred dollars, and it shall

Penalty.

be the duty of the court before whom such conviction is had, to transmit forthwith a particular report thereof to the Governor, who may in his discretion inhibit the person convicted from acting as auctioneer during his pleasure.

Ibid, sec. 111. Mayor to designate where horses and carriages may be sold, &c.

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

Ibid, sec. 112. Auctioneer to keep registry of horses sold: where to be deposited.

28. Every auctioneer appointed and licensed for the sale of horses, shall keep a registry of all horses sold by him, specifying a description of the horse sold, the sum for which he sold, and the name and residence of the seller and buyer, and shall deposit such registry, with an oath of the truth thereof, at the end of each year, with the clerk of the Court of Common Pleas.

Ibid, sec. 113. Rates of commissions allowed for selling books, maps and prints.

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

Ibid, sec. 114. Rates for selling under $150,000.

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

Ibid, sec. 115. Rates for selling over $150,000.

31. No auctioneer licensed generally for the sale of goods, wares and merchandise exceeding one hundred and fifty thousand dollars, without a previous agreement to the contrary, shall be entitled to demand or receive for his services, directly or indirectly, a commission exceeding two dollars clear of all duties for every hundred dollars of the purchase

Exception.

money arising from such sales, except upon sales of furniture and wearing apparel, upon which they shall be entitled to receive four dollars clear of duties for every hundred dollars arising from such sales; and except also upon sales of books, stationery, maps and prints, upon which they shall be entitled to receive seven dollars and fifty cents, clear of duties, for every hundred dollars arising from such sales, and upon these articles the auctioneer mentioned in the preceding section may charge a similar amount.

Ibid, sec. 116. Higher rates than authorized. Penalty.

32. Any auctioneer who shall receive or accept any greater or higher reward for his services than is authorized by this article, shall forfeit the sum of five hundred dollars for every offence, to be recovered in the name of the State by suit, or by indictment in the Criminal Court, one-half to the use of the State and the other half to the use of the party prosecuting for the same.

Ibid, sec. 117. No person but employee to sell.

33. No auctioneer shall authorize or permit any person whatever to sell any property of any description, 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 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.

Places at which sales may be made.

Ibid, sec. 118. Penalty for selling at other places.

34. If any auctioneer shall violate any of the provisions of the last preceding section, he shall forfeit and pay for every offence twenty dollars, to be recovered for the use of the party prosecuting the same before any justice of the peace for the city of Baltimore, in like manner as small debts are recovered.

35. Every auctioneer shall within twenty days after the first days of January, April, July and October, of the year for which he shall have been appointed, render to the comptroller of the State, a true and particular account, in writing, of the money or sums for which any goods, wares or merchandize, or other property of every kind, shall have been sold, at every sale since entering upon 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, merchandize and other property sent or entrusted to him, his partner or partners for sale, 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.

Ibid, sec. 119; 1864, c. 154. Auctioneers to render account to 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 amount now exhibited by me, and to which I have subscribed my name, contains a just and true account of all the goods, wares and merchandize, and property of every kind, sold or struck off by me at public sale or sold at private sale, on the days of my public auctions, or sold or struck off as aforesaid by my co-partner or co-partners, or by others in my name, or under my direction, or for my benefit, within the time mentioned in the within account, and the days upon which the same were respectively sold; that I have examined the entries of all the sales mentioned in said account in the books kept by me for that purpose, and fully believe this account to be correct; and further, that I have during the time mentioned conformed in all things to the provisions of law, according to the best of my knowledge and belief, so help me God: and shall cause a certificate of the fact that he has taken such oath,

Ibid, sec. 120; 1864, c. 154. Auctioneer's oath to account.

Certificate.

duly signed by said justice, and a certificate of the clerk of the Superior Court, of the official character of said justice, to be annexed to said return.

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 who shall neglect or refuse to render an account, or to pay the money due from him to the State for duties according to law, within thirty days after rendering such account, or to make oath as hereinbefore required, or to transmit to the treasurer such account as hereinbefore directed, the said treasurer shall in every such case, provided he has no satisfactory excuse shown to him for such neglect, within a reasonable time to be judged of by said treasurer, certify and publish such neglect in one or more of the public newspapers published in this State, and from the time of such publication such delinquent auctioneer shall be deemed to have forfeited his appointment, and shall thereby be disqualified from acting as auctioneer under the same, and shall also forfeit the sum of seven hundred and fifty dollars, and the treasurer shall direct the State's attorney for the city of Baltimore to sue for and recover in the name of the State, the said sum; provided, that 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, and that if the jury before whom such suit shall be tried shall think such excuse satisfactory, they shall return a verdict for the defendant.

Proviso.

Evidence.

Ibid, sec. 122. Auctioneer making no sales to make affidavit of fact.

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

Ibid, sec. 123. Governor to appoint no auctioneer whose accounts are unsettled.

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

Ibid, sec. 124. Fraud or deceit. Penalty.

40. If any person appointed auctioneer shall be guilty of any fraud or deceit in the discharge of the duties of his office, or shall elude or defeat any provision of this law, he shall on conviction forfeit the sum of one thousand dollars as a penalty of every such offence, to be recovered by any person who will sue for the same, by action, or by indictment in the Criminal Court, one moiety thereof to the use of such person, the other moiety to the use of the State.

Ibid, sec. 125. Prosecution. Penalties recovered.

41. If no person shall, within seven days after any such offence shall be committed, prosecute for the penalties imposed by this law, the treasurer, upon information thereof having come to his knowledge, shall direct the State's attorney for the city of Baltimore to prosecute for the same; and the penalties when recovered shall be paid into the treasury for the use of the State.

Ibid, sec. 126. Perjury. Penalty.

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

Ibid, sec. 127; 1868, c. 13. What amount of auction duties appropriated to deepening channel and harbor. To be paid mayor and council.

43. The proceeds of auction duties to the amount of twenty thousand dollars shall be appropriated annually for the purpose of deepening and improving a channel in the Chesapeake bay and Patapsco river, and the harbor of the city of Baltimore; and the treasurer shall, upon the warrant of the comptroller, disburse and pay over to the mayor and city council of Baltimore all such duties, to be applied under their direction to the purpose aforesaid.

P. L. L., art. 4, sec. 128. Mayor and council to account to comptroller.

44. It shall be the duty of the mayor and city council, on or before the first day of February in each year, to report to the comptroller a fair and distinct account of their disbursements in relation to the deepening and improvement of said

channel, and the comptroller shall report the same to the General Assembly.

Ibid, sec. 129. Excess over $20,000.

45. If the net proceeds of said duties shall exceed the sum of twenty thousand dollars, then the excess of said duties above that sum shall remain in the treasury, to be disbursed as any other revenues not specially appropriated.

Ibid, sec. 130. Proviso.

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

Wharfage.

Ibid, sec. 131. Who may sell without license.

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

ORDINANCES.

No. 8, s. 14, R. O. Register to draw on treasurer.

1. The register is authorized to draw on the State treasurer for all moneys accruing to the city by virtue of the act of 1868, c. 13, (sec. 43, above,) and he shall on or before the first day of February, in each and every year, furnish to the comptroller of the treasury a fair and distinct account of the disbursements in relation to the deepening and improvement of the channel and harbor.

To account to comptroller.

No. 33, s. 36, R. O. Holding auctions in street without permission.

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

Penalty.

When mayor may grant permit.

ARTICLE VII.

BUILDINGS.

STATUTES.

1. Wooden buildings.
2. Party walls and partition fences.
3. Bricks.

ORDINANCES.

1. Wooden or frame buildings prohibited.
2. Buildings regulated.
3. Wooden buildings not to be removed without permission.
4. Wooden sheds for carpenters regulated: proviso.
5. Frame privies and bath houses.
6. Wooden or frame buildings not to be enlarged.
7. Penalty.
8. Building of brick and stone houses regulated.
9. Ordinance, how to be construed.
10. Provision to apply when new roofed: penalty.
11. Lamps attached to wooden buildings regulated.
12. Permit to erect buildings.
13. Appeal tax court to grant permits: penalty.
14. Penalty for injuring houses, &c.
15. For injuring places of worship, tombstones, &c.

PARTY WALLS AND PARTITION FENCES.

16. Use of party walls, &c.: provisos.
17. City commissioner to regulate party walls: return and publication: evidence: fees.

STATUTES.

1. The mayor and city council may direct in what part of the city buildings of wood may be erected. P. L. L., art. 4, sec. 29. Wooden buildings.

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

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

ORDINANCES.

1. It shall not be lawful for any person or persons to erect or build, or cause to be erected or built, any wooden or frame building within the limits of direct taxation, except such as shall be permitted to be erected under the provisions of this ordinance.[1] No. 35, s. 1, R.O. Wooden or frame buildings prohibited.

[1] See as to permits from city commissioner to erect frame sheds, bay windows, &c., City Commissioner and Streets.

Ibid, s. 2. Buildings regulated.

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

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

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

Ibid, s. 4. Wooden sheds for carpenters regulated

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

Proviso.

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

5. Nothing contained in this ordinance shall be construed to prohibit the erection of frame privies, not more than one story in height, and not exceeding five feet square, nor shall anything herein contained be construed to embrace or extend to any bath house that may be constructed in such manner as to project over the yard from the second or other upper story of the house to which it may be attached.

Ibid, s. 6. Wooden or frame buildings not to be enlarged.

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

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

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

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

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

11. No person or persons shall be permitted to hang or place any lamp or light on the outside of any wooden building, unless such lamp be made of such materials as will pre- Ibid, s. 11. Lamps attached to wooden buildings regulated.

vent any liability to fire, and placed at the distance of two feet six inches from such wooden building; and any person or persons offending against the provisions of this section shall forfeit and pay a sum not exceeding five dollars for every such offence, and five dollars per day for every day they shall permit such lamp to remain.

No. 37, April 11, '64.
Permit to erect buildings.

12. It shall not be lawful for any person, without a permit from the Appeal Tax Court, to erect within the limits of the city, any building upon a new foundation, whether in connection with an existing building or not, or to pull down any old building or part of a building to the ground and build upon the old foundation, or to put an addition story upon any building or part of a building by increasing the height of the walls.

Ibid, s. 2.
Appeal tax court to grant permits.

13. It shall be the duty of the judges of the Appeal Tax Court, to grant such permit on application, without any charge, and to keep a record of the same. Any person who shall offend against the provisions of the preceding two sections, shall forfeit and pay a fine of not exceeding twenty dollars, to be collected as other fines are; and it shall be the duty of the assessors employed in the collector's office to attend to the collection of such fines.

Penalty.

No. 33, s. 20, R. O.
Penalty for injuring houses, &c.

14. If any person shall wilfully and maliciously injure or deface any house[1] or premises within the city, or any fence or enclosure, or any other appurtenances belonging thereto, such person shall, for each and every such offence, forfeit and pay not less than ten nor more than twenty dollars, and shall, moreover, be liable to pay all expenses of repairing the said injury or injuries.

Ibid, s. 49.

15. If any person shall injure or deface any house of public worship,[1] or the appurtenances belonging to the same, or

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[1] See acts of 1868, c. 56, (Sup. '68, p. 108,) and 1867, c. 135, (Sup. '61-67, p. 80.)

[1] 1867, c. 135, enacts that, if any person unlawfully and maliciously shall disfigure, cut, injure or damage any church, house of worship, its pews, seats, walls, windows, shutters, trees, tombstones, fencing, inclosures, or other property in or belonging thereto, or any parsonage, its furniture, trees, fencing, or inclosures

any tombstone or grave, or the enclosure or fencing around the same, within the city, such person shall, for each and every offence, forfeit and pay the sum of twenty dollars. Pennalty for injuring places of worship, tombstones, &c.

PARTY WALLS AND PARTITION FENCES.

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

17. The city commissioner[1] shall have full power and authority, and he is hereby authorized and directed, when called on by any person requiring his attendance, to regulate all party walls and partition fences, within the city, in such manner as may, in his judgment, be most likely to promote equal justice between the parties concerned, and 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 relative thereto, and when, and as often as the said city commissioner shall hold a meeting to No. 6, s. 19, Feb. 14, 1863. City commissioner to regulate party walls. Return.

near and belonging to the same, he shall, on conviction before a justice of the peace or the circuit court of the county or city where the said property may be situate, be deemed guilty of a misdemeanor, and fined in the discretion of the said justice or court, in a sum of money not less than three dollars, nor more than fifty dollars for any one offence, and shall stand committed to the public jail of the county or city till the fine and fees shall be paid.

[1] See Streets and City Commissioner, *post*.

regulate any party wall or partition fence within the city, he shall give at least four days' notice, in at least two of the daily newspapers of the said city, of such intention, specifying the time, place and intention of such meeting, and shall, before he regulate any party wall or partition fence as aforesaid, obtain the best information, on oath or affirmation, the case will admit of, which evidence, with every voucher and paper relating thereto, shall be returned with his certificate aforesaid, to be recorded as aforesaid, and the said commissioner 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.

Publication.

Evidence.

Fees.

ARTICLE VIII.

CARRIAGES, HORSES, BOATS AND SCOWS.

STATUTES.

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

LIEN OF LIVERY STABLE KEEPERS.

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

ORDINANCES.

1. Carriages to keep to the right: penalty.
2. Not to enter narrow streets when occupied: penalty.
3. Drivers to hold reins: immoderate gait prohibited: horses, &c., not to be turned loose: drivers to hold, or be within reach of bridle: not to drive over footways: proviso.
4. Carriages of burden not to go faster than a walk.
5. No person to ride or drive over bridges faster than a walk.

6. Penalty for omnibuses passing each other.
7. Penalty for racing.
8. Express riding regulated.
9. Riding and driving regulated.
10. Sleighs and railroad cars to have bells.
11. Drays regulated.
12. Mayor to regulate car stands: proviso.
13. Carriages of pleasure regulated.
14. Duty of drivers occupying stands: not to seek employment on the sabbath.
15. Vehicles remaining in the streets over night: proviso: sabbath day.
16. Wagons, &c., not to stand on streets on the sabbath: exception.
17. Hacks not to stand on certain parts of Charles street.
18. Passenger railway cars not to be obstructed: fine.
19. Cracking of whips prohibited.
20. Wagons, &c., not to stand across streets: proviso.
21. Nor stand across flag stones, &c.
22. Not to obstruct approach to any place, except at market on market days: penalty.
23. Wagons, carts, &c., not to remain longer than two hours, when not in actual use: exception: penalty.
24. Carriages on Bowly's wharf and Light street regulated.
25. Mayor to designate stands for carriages, &c.: proviso.
26. Distance between vehicles in driving: penalty: proviso: funerals.
27. Penalty for riding or driving across the line of funerals.
28. When mayor shall withdraw licenses.
29. Comptroller's powers.
30. Hacks, &c., to be numbered: owner to take out license: penalty.
31. Metallic badge.
32. Driver constantly to wear badge: penalty.
33. Licenses, when to terminate and be renewed.
34. Register to provide numbers, &c.: where numbers to be placed.
35. Numbers of any design may be used: proviso.
36. Rate of license.
37. Penalty for false entry or change of numbers.
38. Carriages not to be used for hire without being licensed and numbered.
39. Number corresponding with license only to be used.
40. Register to give notice.
41. Penalty for violating rules under this ordinance.

LIVERY, HIRING AND SALE STABLES.

42. Buildings: permit.
43. Publication.
44. Forfeiture.

STATUTES.

1. The mayor and city council have power to license and regulate hackney coaches, or other carriages kept for hire and employed within the city, and also draymen, wagoners, carters, porters and watermen, residing and employed within the said city, with power to make all necessary regulations respecting the same. The mayor may make such regulations in respect to the riding and driving of horses and carriages, as he shall deem best calculated to protect the persons of individuals from danger.

P. L. L., art. 4, secs. 111, 138.

Hackney coaches, dray men, &c., to be licensed and regulated.

Mayor to regulate riding and driving.

Ibid, sec. 139. What, a hackney carriage.

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

1865, c. 90. Police commissioners to fix rates of fare.

3. The board of police commissioners of the city of Baltimore shall determine and fix the rate of fare[1] to be charged by the owners of hackney carriages in said city, and every owner of a hackney carriage, who shall have obtained a license therefor, as required by the ordinances of the mayor and city council of Baltimore, shall be authorized and entitled, during the time in such license specified, to ask, charge and receive as a compensation from every person using the same, the rates of fare and compensation, and hire prescribed by the said board of police commissioners, and no more; provided, that the provisions of this section shall not apply to the owners of hackney carriages who conduct their business exclusively at their respective stables.

Proviso.

1865, c. 90. Number to be placed on carriage.

4. The owner of every licensed hackney carriage, other than those excepted in the preceding section, before he shall be entitled to charge, ask or receive any hire or compensation for the use thereof, shall cause the number of such carriage,

[1] 1865, c. 90, is entitled, an act to repeal sections 140, 141, 142, and 143 of article iv. of Public Local Laws, relating to hackney carriages, and to enact other sections in lieu of the sections so repealed. It then repeals secs. 140, 141 142 and 143, and enacts the above (secs. 3 to 8,) in lieu thereof.

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

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

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

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

Evening and Night.—For hacks taken from the stand to any part of the city, as follows: From 1st May to 3d September, inclusive, after 8 o'clock, P. M., for a single passenger, 75 cts.: if more than one, each, 50 cts.; like sum for returning. From the 1st October to 30th April, inclusive, after 7 o'clock, P. M., the same. No charge for baggage.

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

as stated in his license, in plain and easily legible figures, at last two inches in length, to be painted or otherwise delineated in conspicuous places on each side of such carriage, both within and without, and shall also keep in at least two conspicuous positions in the interior of such carriage a copy of the rates of fare or charges prescribed by the board of police commissioners, as aforesaid, printed on a white paper card, with black ink, by types of a size not less than long primer, so that the same may be conveniently seen, and read, in the day time by any person who may be a passenger in said carriage.

Rates of fare to be placed inside.

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

1865, c. 90.
When special license may be granted.

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

1865, c. 90.
Penalty in cases of special licenses.

7. Each and every proprietor of hackney carriages shall, at the time when he applies for a special license, or any renewal thereof, furnish the comptroller or other proper officer of the city of Baltimore with a correct statement of the number of

1864, c. 90.
Statement to be made by applicant for special license.

hackney carriages used by him, and such owner whenever he shall have increased the number of such hackney carriages, shall report such increase to the comptroller, or other proper officers of said city, and every person violating any one of the provisions of this section shall forfeit his license, and be liable to a penalty of ten dollars.

1865, c. 90. Fines, how recovered.

8. The fines and penalties imposed by the act of 1865, c. 90 shall be recovered and collected in the same manner as other fines and penalties of a like amount are now recovered and collected, and shall be paid over to the same parties, for the same purposes, as is provided in section thirteen.

P. L. L., art. 4, sec. 144, Penalty for charging higher rates, &c.

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

Ibid, sec. 145. Penalty for refusing number; for refusing to give correct rates; for misconveying or insulting passengers.

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

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

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

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

LIEN OF LIVERY STABLE KEEPERS.

14. It shall be lawful for any livery stable keeper to retain in his custody, any horse, mare or gelding, placed under his care for livery, and also any vehicle until all charges for so keeping shall have been paid by the owner or owners thereof. 1865, c. 163, s. 1. Lien of livery stable keeper for charges.

15. It shall and may be lawful for such livery stable keeper to sell any such horse, mare or gelding, or vehicle, at public auction, in the city of Baltimore, after giving at least twenty days' notice in two of the daily newspapers published in the city of Baltimore, of the time, place and manner of sale, and after deducting the amount due for keeping, together with all expenses of said sale, to return the surplus, if any, to the owner of such horse, mare or gelding, or vehicle. Ibid, sec. 2. How sale may be made.

16. Before proceeding as above, it shall be necessary for such livery stable keeper to state an account for the keeping of such horse, mare or gelding, or vehicle, and prove the Ibid, sec. 3. Account to be stated.

same before a justice of the peace for the city of Baltimore, who upon being satisfied by proof of demand and refusal or neglect to pay on the part of the owner, shall thereupon issue his warrant authorizing such sale as aforesaid; provided, that the proprietors of such livery stables shall set up on his premises, in some conspicuous place, a copy of the aforegoing two sections, printed in large type, and his rates of livery.

Proviso.

ORDINANCES.

No. 32, s. 1, R.O. Carriages to keep to the right.

1. The drivers of all carriages, of burden or pleasure, driving or passing through the streets, lanes or alleys of the city, where there is room sufficient for two to pass, shall keep on that side of the street, lane or alley, on their right hand respectively; and if any driver of a carriage shall drive his carriage in the middle of the street, or on the side of the way on his left hand, so as to prevent or obstruct another carriage from passing as aforesaid, every driver so offending, shall forfeit and pay for every such offence a sum not exceeding five dollars.

Penalty.

Ibid, s. 2, Not to enter narrow streets when occupied.

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

Penalty.

Ibid, s. 3. Drivers to hold reins,

3. No person shall sit or stand in or upon any carriage, or any horse or beast harnessed thereto, in order to drive the same, unless he shall have strong reins or lines fastened to the bridle of his beasts and held in his hands, sufficient to guide and restrain them, and no person driving any carriage, or riding any horse, mare, gelding or other beast in or through the said city, shall permit or suffer the beast or beasts, he shall so ride or drive, to go at an immoderate gait, and no person shall turn any horse, mare or gelding loose within the city, or drive such horse, mare or gelding loose

Immoderate gait prohibited.

Horses &c. not to be turned loose.

through any of the streets, lanes or alleys of the said city, and all porters, carters and other persons having the care of any carriage who shall not hold reins in their hands to guide or restrain their beasts, shall walk by the head of the shaft or wheel-horse, holding, or within reach of the bridle or halter of the said horse, and no person shall drive, lead or place any horse or beast of burden, or any horse attached to a cart, dray or other carriage, laden or unladen, on any of the footways of the city, and every person offending in any or either of the cases aforesaid, shall forfeit and pay for every such offence a sum not exceeding twenty dollars; provided, that nothing herein contained shall prevent any persom from riding, driving or leading across any of the footways any horse or beast of burden, into or out of any lot or tenement.

Drivers to hold or be within reach of bridle.

Not to drive over footways.

Proviso.

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

Ibid, s. 4.

Carriages of burden not to go faster than a walk.

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

Ibid, s. 5.

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

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

Ibid, s. 6.

Penalty for omnibuses passing each other.

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

Ibid, s. 7.

Penalty for racing.

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

Ibid, s. 8.

Express riding regulated.

9. Any rider of any horse, mare, gelding or mule, and any driver of any hack, cab, omnibus, gig, sulky, carryall, buggy

Ibid, s. 9.

Riding and driving regulated.

wagon, stage coach, private carriage, or any carriage of pleasure, or carriage of any description other than those mentioned in the fourth section of this ordinance, going or moving within the limits of the city, at a rate more rapid than six miles an hour, shall be subject to a fine of five dollars.

Ibid, s. 10. Sleighs and railroad cars to have bells.

10. No driver of a carriage going upon runners or rail tracks shall pass through the streets, lanes and alleys of the city, unless one or more bell or bells be fixed to the horse or horses drawing the same, under a penalty for every such offence not exceeding five dollars.

Ibid, s. 11. Drays regulated.

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

Ibid, s. 12. Mayor to regulate cart stands.

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

Proviso.

Ibid, s. 13. Carriages of pleasure regulated.

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

Ibid, s. 14. Duty of drivers occupying stands.

14. Every driver, or person having charge of any cart, dray or other carriage, whilst occupying any stand, and unemployed, shall sit in such carriage, or stand near thereto

with the reins in his hands, or in such manner to have the same within his reach, and no owner or driver of any carriage of pleasue for hire or pay within the city, shall take a stand, or move to and fro in any of the streets, lanes or alleys of the city, waiting or seeking for hire or employ on the Sabbath day, and every person offending in either of the cases mentioned in this, or the preceding three sections, shall forfeit and pay for every offence a sum not exceeding five dollars.

Not to seek employment on the sabbath.

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

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

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

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

17. It shall not be lawful for licensed carriages of pleasure, commonly called hacks, to stand upon the bed of Charles street, between Camden and Lombard streets, and any person offending against the provisions of this section, shall forfeit and pay the sum of five dollars for each and every offence, to be recovered as other fines and forfeitures are now recoverable.

No. 71, s. 2, Sept. 3, '60.
Hacks not to stand on certain parts of Charles street.
Fine.

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

Ibid, s. 3.
Passenger railway cars not to be obstructed.
Fine.

every offence, to be recovered as other fines and forfeitures are now collectable.

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

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

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

20. It shall not be lawful for any wagon or other carriage to be placed or stand across any street, lane or alley, in the city, or in any other position except with the length parallel to the side of the street, lane or alley in which it may be; and the owner or driver of any wagon or other carriage placing the same or permitting it to stand in any other position than that above described, shall forfeit and pay the sum of two dollars; provided, that any wagon or other carriage of burden may, during the time of loading or unloading, with shaft horses only, in the daytime, stand in a position convenient for those purposes for any necessary space of time, not exceeding three hours, without the owner or driver thereof incurring the penalty aforesaid; but nothing in this proviso contained shall authorize the placing of any wagon or other carriage in any position which will prevent the passage of any wagon, cart or other carriage.

Proviso.

Ibid, s. 18. Nor stand across flagstones, &c.

21. It shall not be lawful for any person to place any carriage of any description whatever, upon or across any of the flag or stepping stones, placed for the convenience of foot passengers across any street, lane or alley in the city; and every driver of any carriage whatever, shall promptly remove his carriage off the same, upon demand of any person, under a penalty of five dollars.

Ibid, s. 19. Not to obstruct approach to any place except at market on market days.

22. If any owner or driver of any wagon, cart or other carriage, shall place such wagon, cart or other carriage, or any horse on any street, lane or alley of the city other than the streets, lanes and alleys within the limits of the several markets on market days, so as to prevent the access of any other carriage to the curb stone in front of any building, against the consent of any owner or occupier of such build-

ing, or if such owner or owners, upon being required to move his cart, wagon or other carriage, or horse, by the owner or occupier of such building, or by any police officer, shall refuse or neglect so to do immediately, he shall forfeit and pay for every such offence the sum of five dollars; and it shall be lawful for the owner or occupier of such building to remove the said cart, wagon or other carriage, horse or horses, and every person who shall obstruct the said owner or owners, shall forfeit and pay the sum of five dollars for each offence. Penalty.

23. Excepting within the limits of the several markets, and in accordance with the article, entitled Markets, no person whatever shall place any wagon, cart or other vehicle licensed by the city, or owned in the city of Baltimore, or any horse, mare or gelding belonging to the same, on any of the streets, lanes or alleys of the city, when not in direct and absolute use at the time, to remain there for a longer time than two hours, under a penalty of three dollars for each and every offence; and that all carriages, wagons, carts, drays and other vehicles, upon their stands by authority of the mayor of the city, shall be considered as in use under this section. Ibid, s. 20. Wagons, carts, &c., not to remain longer than two hours, when not in actual use. Exception. Penalty.

24. It shall not be lawful for any carriage or carriages, of any description whatever, to stand on that part of Bowly's wharf south of a right line with the north side of Camden street, or on that part of Light street which lies between Pratt and Lee streets, longer at any one time than the same can be loaded or unloaded, under a penalty of two dollars for each offence. Ibid, s. 21. Carriages on Bowly's wharf and Light regulated.

25. The mayor is hereby authorized and requested to designate stands for licensed carriages of pleasure and burden and package carts, out of Baltimore street and that part of Pratt street which lies between South and Hanover streets; and no person shall take any stand not so designated with a licensed carriage of pleasure or burden, or a package cart, under a penalty of not less than one nor more than five dollars; provided, that the mayor shall not designate stands for Ibid, s. 22. Mayor to designate stands for carriages, &c. Proviso.

carts in any streets except at the south end of Broadway, and in Camden, Conway, Barre and Lee streets, east of Charles street, and at the lower end of the Centre market space.[1]

No. 21, Apl. 4, '68.
Distance between vehicles in driving.
Penalty.
Proviso.

26. No driver of any vehicle upon the streets of the city shall drive so close to any vehicle in front, that there shall be less than ten feet between the rear of said vehicle in front and the head of the horse of the vehicle in the rear at all crossings, under a penalty of not less than two dollars nor more than five dollars, at the discretion of the justice of the peace, for each and every offence, to be recovered as other fines are recoverable; provided, that this section shall not apply to funerals or other processions.

No. 32, s. 23, R. O.
Penalty for riding or driving across the line of funerals.

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

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

28. It shall be the duty of the mayor to withdraw the license from any vehicle licensed by the city, the driver of which shall violate a second time any of the provisions of this ordinance regulating the speed of horses and vehicles.

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

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

No. 32, s. 25, R. O.
Hacks, &c., to be numbered.
Owner to take out license.

30. All hackney coaches, buggies, cabs and gigs, kept for hire, and all wagons, furniture carriages, carts, drays, package carts, boats of every description, and scows, used or employed within the city, shall be numbered with plain, conspicuous figures, on plates of tin, to be provided by the register for that purpose, as hereinafter directed, to begin with number one, and so on progressively; and the owner or owners of

[1] By Res. No. 6, Nov. 21, '67, James Miller and others have the privilege of standing drays on Pratt street, between Spear's wharf and Smith's wharf, the privilege, however, to be revoked by the mayor whenever in his judgment the interest of the public demands it.

such carriages, boats or scows, shall annually appear at the office of the comptroller, and there enter in a book, to be kept for that purpose, his or her name and place of abode, and the description of every such carriage, boat or scow by him or her owned, and the number thereon to be affixed; and such owner or owners shall take out a license, containing his, her or their number, and signed by the comptroller, with the city seal thereto affixed; and no owner or holder shall be permitted to use or employ, or let for hire, on any street, lane or alley, nor in any waters within the city, any hackney coach, buggy, cab or gig, kept for hire, wagon, furniture carriage, cart, dray, package cart, boat or scow, until he, she or they shall first comply with the regulations herein contained; and should any holder or owner thereof use or employ any such carriage, boat or scow within the city, until he, she or they have fully complied with the requisitions of this ordinance and the regulations herein contained, he, she or they shall be liable to forfeit and pay for every such offence a fine of one dollar. Penalty.

31. It shall be the duty of the comptroller to have made in addition to the regularly numbered tin plates for hackney carriages, as provided in the preceding section, a small metallic badge having on it, in plain and legibly raised figures, the number of the carriage so licensed, and a badge containing said number shall be handed to the owner or driver of every carriage at the time of receiving the annual license for the same, and the comptroller shall charge, in addition to the regular rate of license, the sum of twenty-five cents for said badge. No. 16, Mar. 31, '63. Metallic badge.

32. It shall be the duty of the driver of every hackney carriage when on duty, to constantly wear the badge, directed to be furnished him by the above section, on the front of his hat or cap, so that it can be plainly seen and read; and failing to do so, he shall forfeit and pay a penalty of not less than five nor more than ten dollars for each and every offence, to be recovered as other fines and forfeitures are now recoverable. Ibid, s. 2. Driver constantly to wear badge. Penalty.

No. 32, s. 26, R. O.
Licenses, when to terminate and be renewed.

33. All licenses shall terminate on the first day of May, annually, and shall only be considered as entitled to renewal if such renewal shall be applied for on said day, or within twenty days thereafter; and in all cases where said license shall not have been renewed within twenty days aforesaid, a new license shall be necessary, to be dated and paid for from the first of May, as in case of renewal.

Ibid, s. 27.
Register to provide numbers, &c.

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

Where numbers to be placed.

Ibid, s. 28.
Numbers of any design may be used.

35. All persons who take out license under this ordinance, are hereby authorized to provide numbers for their carriages, wagons and other vehicles, of such design as to them may seem proper, such numbers to conform with the number of their license, the same to be in a conspicuous place; provided, that the number furnished by the comptroller be nevertheless attached to such carriage and wagon in such place as he may direct.

Proviso.

Ibid, s. 29.
Rate of license.

36. The owner or owners of any carriage, boat or scow, obtaining license therefor, shall pay the comptroller for the

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

Ibid, s. 30. Penalty for false entry or change of numbers.

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

Ibid, s. 31. Carriages not to be used for hire without being licensed and numbered.

38. No owner of any carriage shall use the same in carrying or transporting any person or persons, within the said city, for hire or pay, unless such owner shall appear at the office of the comptroller and make entry and take out license as aforesaid, and number such carriage on the middle panel or other conspicuous place, of each side, with plain and conspicuous figures, and the same renew annually; and such owner shall be subject to all the other rules and regulations herein contained, respecting wagoners, carters and draymen, and shall be liable to the same forfeitures and penalties upon

the non-compliance with or violation of any such rule or regulation.

Ibid, s. 32. Number corresponding with license only to be used.

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

Ibid, s. 33. Register to give notice.

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

Ibid, s. 36. Penalty for violating rules under this ordinance.

41. Every person violating any rule made by the mayor in virtue of this ordinance, shall be subject to a penalty of two dollars, unless some other penalty is hereinbefore provided for the offence, one-half of the fines in all cases under this ordinance to the informer.

LIVERY, HIRING OR SALE STABLES.

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

42. It shall not be lawful for any person or persons, or bodies corporate, to erect or cause to be erected, or to alter or cause to be altered, any building or buildings for the purpose of being used as livery, hiring or sale stables, within the limits of direct taxation, without having first had and obtained a permit from the mayor and city council of Baltimore.

Permit.

Ibid, s. 2. Publication.

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

Ibid, s. 3. Forfeiture.

44. For any and every violation of the provisions of the preceding two sections, the party or parties so violating, shall

forfeit and pay the sum of two hundred dollars, and a further sum of fifty dollars for each and every week thereafter, until the stable or stables so erected or altered shall be removed outside of the limits of direct taxation, torn down, or ceased to be used for that purpose, the said fines and forfeitures to be recovered as other fines and forfeitures are now recoverable.

ARTICLE IX.

CHIMNEYS.

STATUTE.

Licensing and regulating chimney sweeping.

ORDINANCES.

1. Superintendents of chimney sweepers to be appointed and licensed: penalty.
2. To give bond.
3. Duty of superintendents: penalty for refusing to allow chimneys to be swept.
4. Penalty for neglect of duty by superintendents.
5. Fees.
6. Penalty when chimneys take fire: provisos.
7. Flues of chimneys in which anthracite coal is used, regulated.
8. Width of funnels regulated.
9. Timber resting on chimneys regulated.
10. Superintendents to enforce regulations.
11. Their duty in relation to new houses: liability of owners: charge for scraping.
12. Chimneys or stoves annoying neighbors prohibited: penalty.
13. Chimneys, stacks, stove pipes, &c., regulated: penalty.
14. Smoking meat prohibited: proviso: penalty.
15. Superintendents to examine fire places, &c.; notice to mayor: penalty.
16. Annual report of superintendents.
17. Hours for sweeping regulated: penalty.

STATUTE.

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

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

ORDINANCES.

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

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

Penalty.

Ibid, s. 2.
To give bond.

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

Ibid, s. 3.
Duty of superintendents.

3. Each superintendent is hereby directed to apply to the occupier or occupiers of every house and of every room and apartment within his district for permission to sweep any chimney in such house, or belonging to such room which has been so much used as to require, in the opinion of the superintendent, to be swept, and has not been swept at any time within the term of four weeks next preceding the day of such application, and if the said occupier or occupiers will not then permit such superintendent to sweep such chimney, or will not appoint a reasonable time within twenty-four hours thereafter for the doing thereof, or will not permit such chimney to be swept at the time which may be so appointed, he, she or they shall pay to the superintendent the same sum of money as if such chimney had been swept by him, and shall forfeit and pay to the corporation a sum not exceeding five dollars, and in such case the superintendent shall be and he

Penalty for refusing to allow chimneys to be swept.

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

Ibid, s. 4. Penalty for neglect of duty by superintendents.

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

Ibid, s. 5. No. 59, Apl. 29, '64. Fees.

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

No. 48, s. 6, R. O. Penalty when chimneys take fire. Proviso. Proviso.

6. If any chimney in the city shall take fire, and blaze out at the top, the superintendent within whose district the said chimney shall be, shall forfeit and pay to the corporation the sum of ten dollars; provided, nevertheless, that such forfeiture shall be paid by the occupier or occupiers of the house or room wherein such chimney may be, in case he, she or they would not permit such chimney to be swept, upon application having been made therefor by the said superintendent, agreeably to the provisions of this ordinance; and provided, also, that the said superintendent shall not be liable to the fine imposed by this section, where the fire occurs in a chimney in which is placed a Franklin or other stove, or in a stove pipe or chimney so fixed as to prevent the thorough sweeping and cleansing of such chimney.

Ibid, s. 7. Flues of chimneys in which anthracite coal is used, regulated.

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

Ibid, s. 8. Width of funnels regulated.

8. If any person or persons shall erect or build, or cause to be erected or built, any chimney within the limits of the city, of less width than thirteen 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.

Ibid, s. 9. Timber resting on chimneys regulated.

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

Ibid, s. 10. Superintendents to enforce regulations.

10. It shall be the duty of the superintendents of chimney sweepers to carry into effect in their respective districts the provisions of sections eight and nine of this ordinance.

Ibid, s. 11. Their duty in relation to new houses.

11. Each superintendent of the sweeps is hereby directed to apply to the owner or owners of any new built house within his district for permission to scrape the chimneys belonging to such house before the same is occupied, and if the said owner or owners will not permit such superintendent to scrape such chimney or chimneys, and shall suffer the same to remain unscraped until such house is occupied, the owner or owners shall pay to the superintendent the same sum of money as if such chimneys had been scraped by him, and

Liability of owners.

shall forfeit and pay to the corporation as a fine, a sum not exceeding five dollars; and no superintendent shall demand or receive from any person, directly or indirectly, under the penalty of five dollars for each and every offence, more than twenty-five cents for each funnel so scraped. Charge for scraping. Penalty.

12. No person shall erect or continue to use any chimney or stove within the city, in such a manner as that the smoke thereof shall annoy any neighbor or the citizens in passing, and upon the complaint of any neighbor or citizens thereof to the mayor, he may, in his discretion, order the same to be altered or removed, and if any person shall refuse or neglect to remove the same, he shall forfeit and pay a sum not exceeding ten dollars, and the like sum for each and every week thereafter until such order shall be obeyed; and no person shall erect a stove, and conduct the pipe thereof through the side or end of any wooden house, or the roof or wooden ceiling of any building, under a penalty not exceeding ten dollars, and shall forfeit and pay the same sum for each and every month thereafter, until such pipe shall be removed. Ibid, s. 12. Chimneys or stoves annoying neighbors prohibited. Penalty.

13. No person shall erect, or continue to use, any chimney, stack, stove pipe or furnace within the limits of the city, in such manner as that the cinders thereof shall annoy any neighbor or citizen; and that all chimneys, stacks or stove pipes, not over fifty feet high, connected with blacksmith shops, steam engines or furnaces, shall be provided with spark-catchers, so as to prevent the cinders from annoying the citizens in the neighborhood; and upon the complaint of any neighbor or citizen thereof to the mayor, he may, in his discretion, order the same to be altered or removed; and if any person shall refuse or neglect to alter or remove the same, after thirty days notice, he shall forfeit and pay a sum not exceeding ten dollars, and the like sum for each and every week thereafter until such order shall be obeyed. No. 17, Mar. 17, '66. Chimneys, stacks, stove pipes, &c. regulated. Penalty.

14. It shall not be lawful to make or cause to be made any fire for the purpose of smoking any bacon or other meat in any warehouse or other building, except in houses built expressly for that purpose, and in the opinion of the city com- No. 48, O. Smoking meat prohibited. Proviso.

missioner, made secure, so as not to endanger the adjoining property, and any person offending against the provisions of this section shall forfeit and pay the sum of twenty dollars, and the further sum of ten dollars for each and every day the practice shall be continued.

Penalty.

Ibid, s. 14. Superintendents to examine fire places, &c.

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

Notice to mayor.

Penalty.

Ibid, s. 15. Annual report of superintendents.

16. It shall be the duty of the superintendents of chimney sweepers, in the month of December of every year, to return to the mayor an enumeration of all the houses erected in their respective districts, distinguishing the number of houses of one, two, three, four or more stories, under the penalty of twenty dollars.

Ibid, s. 16. Hours for sweeping regulated.

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

Penalty.

ARTICLE X.

COMPTROLLER.

ORDINANCES.

1. Appointment of comptroller: salary: term of office: bond.
2. Duties of comptroller.
3. To supervise the fiscal concerns of the corporation.
4. To examine contracts, issue licenses, &c.: open accounts with all the departments: certify to correctness of claims: report all contracts to council: report when appropriations are exhausted: examine and certify to correctness of pay rolls.
5. Public improvements.
6. To represent city when property insured is destroyed.
7. Comptroller, keeper of title deeds, &c.: to record deeds, &c.: record book: index.
8. Comptroller to bid at public sale for property sold for taxes.
9. To sell for cash property purchased: proviso.
10. Payments to collector and register.
11. Comptroller to take charge of refuse material: to sell same, and old metal.
12. Refuse materials, &c., to be handed over to comptroller.
13. Separate account.
14. Clerk to comptroller: his salary: extra assistance.

ORDINANCES.

1. Biennially, in the month of January, there shall be appointed in the manner that other city officers are appointed, a qualified person who shall be a good accountant, to be called comptroller of the city of Baltimore, at a salary of two thousand dollars per annum, who shall hold his office for two years, and until his successor shall have qualified; his term of office shall commence on the first Monday of March next succeeding his appointment; he shall be liable to removal from office in the same manner as the city register; and before entering upon his duties, he shall

No. 9, s. 1, R. O. Appointment of comptroller.

Salary.

Term of office.

execute to the mayor and city council of Baltimore a good and sufficient bond, to be approved by the mayor, in the sum of ten thousand dollars, conditioned for the faithful discharge of his duties, and shall also take the usual oath of office.

Bond.

Ibid, s. 2. Duties of comptroller as to accounts, &c.

2. It shall be the duty of said comptroller to examine, audit, adjust and settle all accounts whatsoever in which the corporation is concerned, either as debtor or creditor, where provision for the settlement thereof is made by law, and the settlement of which is not especially committed, by ordinance, to some other authority; and where no such provision or insufficient provision has been made, he shall examine such accounts and report to the city council through the mayor, the facts relating thereto, with his opinion thereon.

Ibid, s 3. To supervise the fiscal concerns of the corporation.

3. The said comptroller shall supervise the fiscal concerns of all the departments, bureaus and officers of the corporation, which shall receive or disburse the public moneys, or which are charged with the management or custody thereof, and may require at any time from these departments, bureaus or officers, an account, in writing, of any moneys or property of the corporation in their hands or under their control; he shall also annually charge the city collector with the amount of the annual levy, and credit him with the amount received as having been collected on such levy.

Ibid, s. 4. To examine contracts, issue licenses, &c.

4. Said comptroller shall examine all contracts made by the city officers, all requisitions upon the city treasury and accounts of every nature against the city, issue all licenses, numbers of carriages, wagons and other vehicles,[1] he accounting with the register for the same, and paying over to him the fees received for the same; he shall open accounts for appropriations with all the departments of

Open accounts with all the departments.

[1] See art. 8, *ante*, and Licenses, *post*.

the city government, and report immediately to the mayor when any department shall overdraw or exceed its appropriations; he shall keep the titles to all property owned by the city, and see that the said property is maintained in good condition and regularly insured; he shall certify to the correctness of all claims, of whatsoever description, upon which money is due, and no check shall issue but upon his endorsement of its correctness, which shall be authority to the register to issue his check, to be countersigned by the mayor; he shall report within thirty days after the meeting of the council in annual session, all contracts made by the corporation, as directed or authorized by the council, and not performed or completed, or upon which any money remains unpaid, with the amount of money remaining unpaid on each,[1] he shall report forthwith to the council, through the mayor, every case in which an appropriation is exhausted, while its object is not completed, and accompany such report with a statement of moneys which have been drawn on such appropriations, the particular purposes for which they were drawn, and the cause of the deficiency, and an estimate of the amount that will be necessary to complete the object of the appropriation; he shall examine into and certify the sufficiency of all bonds required to be taken by the mayor; he shall examine and certify to the correctness of all pay-rolls and salaries of all officers of every grade, affidavits being made in all cases where required before the justice of the peace appointed by the city within the district where said parties reside, or may be stationed for the time being, before said pay-rolls ars submitted for settlement.

Certify to the correctness of claims.

Report all contracts to council.

Report when appropriations are exhausted.

Examine and certify to correctness of pay rolls.

Affidavit.

5. The comptroller and register shall not accept, pass, settle or pay any bill or order, in their departments, for public improvements, unless due provision has been made for the

Res. No. 128, June 27, '65.

Public improvements.

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[1] See p. 43, secs. 69–72, *ante*, and note as to contracts made by city officers and duty of comptroller.

payment of the same by an act of legislation making an appropriation for such purpose.[1]

No. 9, s. 7, R. O. To represent the city when property insured is destroyed.

6. The comptroller is authorized to represent the city in all cases where damage has or may occur from fire to any property of the corporation, which may have been insured, and any moneys that may be awarded to the city by reason of loss from fire, shall be paid into the city treasury, and the city commissioner is hereby authorized to expend the same in repairing such property as may have been injured by fire, should he, in conjunction with the mayor, deem it expedient to make such repair, and if not deemed expedient, the money received for such damage by fire, shall be paid by him into the city treasury, and he shall draw on the register, with the approbation of the mayor, for the amount of such repairs.

Ibid, s. 6. Comptroller keeper of title deeds, &c.

7. The comptroller shall keep a well bound record book, and have therein recorded all deeds and leases made to the city, or sufficient extracts from such deeds and leases as will fully explain the same; and also all contracts and agreements made in relation to the property of the city; the records in said record book to be written on every other page, so that the page opposite the record may be left blank for any remarks that may be necessary to be made in regard to the disposition of said property. The said record book shall also have an alphabetical index made for more easy reference to said deeds, leases, contracts and agreements.

To record deeds, &c.

Record book. Index.

No. 47, s. 1, July 15, '62. Comptroller to bid at public sale for property sold for taxes.

8. The comptroller is hereby authorized and directed, when in his opinion the interest of the city requires it, to bid for account of the mayor and city council of Baltimore, on any real or leasehold property offered at public sale by the collector to pay taxes in arrears due the city of Baltimore and State of Maryland, to such amount as he may deem

[1] See Const., sec. 7, p. 5, *ante*.

necessary to pay said taxes, together with interest and expenses due and chargeable thereon, and no more; any property that may be so purchased shall be held subject to redemption at any time within one year and a day from the day of sale, by the owner thereof or other parties in interest, as provided for by the laws of the State and ordinances of the city.

Ibid, s, 2. To sell for cash property purchased.

9. The comptroller is hereby authorized and directed to sell for cash, any property that may be purchased by him as aforesaid, and not redeemed within the time limited by law and ordinance, in such way as he may think best, and as soon as practicable, deliver to the purchaser or purchasers a deed for the city's interest in the same; provided, however, that said property shall be sold for a sum not less than the amount of taxes, together with all costs, charges and interest due and chargeable thereon. Proviso.

Ibid, s. 3. Payments to collector and register.

10. The comptroller is hereby directed, as soon as he has received the money for the property sold by him as aforesaid, to pay over to the collector the amount of taxes, together with all interest and charges due and chargeable on said property on the books of the collector; and any balance that may be left, after paying the costs and expenses incurred by the comptroller in the purchase and sale of said property, shall be by him paid over to the register of the city, and pass into the city treasury.

No. 13, s. 1, Apl. 4, '62. Comptroller to take charge of refuse material.

11. It shall also be the duty of the comptroller to take charge of and keep an account of all refuse material[1] that may accumulate in the city commissioner's, port warden's, and other departments of the city, the articles laid aside as useless at the said departments, to be taken charge of and

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[1] Ordinance No. 12, April 8, '61, providing for the appointment of a keeper of refuse material belonging to the corporation, was repealed by No. 5, February 17, '62.

accounted for by those having supervision of the same. And it shall also be the duty of the comptroller to dispose of at private or public sale, to the best advantage, all old metal and refuse materials of every kind, and pay the proceeds over to the city register, specifying at the same time the articles, price, and to whom sold.

To sell old metal and refuse materials.

Ibid, s. 2. Refuse materials, &c. to be handed over to comptroller.

12. The city commissioner and port warden, and other persons having city property under their charge, shall set aside, on or before the first day of each month, such old metal and other materials as mentioned in the preceding section, and hand the same over to the comptroller, they taking and keeping an account thereof.

Ibid, s. 4. Separate account.

13. The comptroller is hereby directed to open a separate account for the department of refuse material.

No. 9, s. 5, R. O. No. 55, Apl. 26, '64; No. 59, Aug. 13, '62. Comptroller's clerk; his salary. Extra assistance.

14. The comptroller shall have authority to appoint a clerk, who shall receive an annual salary of thirteen hundred and fifty dollars, and shall perform such duties as may be required of him by the comptroller. The comptroller is authorized to obtain such extra assistance in his office as may be required; provided, the whole expense shall not exceed the sum of six hundred dollars.

See further, as to duties of comptroller, sec. 7, p. 85; sec. 29, &c. p. 94; sec. 33, &c. Art. 23; sec. 5, Art. 24; sec. 22, &c. Art. 27; Art. 30; sec. 19, &c. Art. 32; Art. 37; sec. 25, Art. 40; sec. 65, Art. 43; sec. 106, &c. Art. 43; sec. 7, &c. Art. 44; sec. 4, &c. Art. 45.

ARTICLE XI.

CORONER.

STATUTE.

1. One coroner for Baltimore: term of office: salary: oath and bond: proviso.
2. Deputy.
3. Coroner's duties: jury: proviso.
4. Monthly report to police commissioners: money, &c. to be deposited in bank.

STATUTE.

1. The Governor, by and with the advice and consent of the Senate, shall appoint and commission a competent member of the medical profession as sole Coroner for the city of Baltimore, to hold office during the period of two years, and at an annual salary of two thousand dollars, payable quarterly by the register of said city; provided, that before entering upon the duties of his office, the person appointed Coroner shall take the oath of office prescribed by the Constitution of the State of Maryland for office-holders; and further, shall give a bond to the State of Maryland, with security to be approved by the judge of the Superior Court of Baltimore city, in the penalty of five thousand dollars, conditioned for the faithful performance of his duties as now prescribed by law, or which shall hereafter be prescribed.

P. L. L., art. 4, sec. 151. 1868, c. 457. One coroner for Baltimore city. Term of office. Proviso. Oath and bond

2. In case of the absence or illness of the Coroner, he shall depute some competent person to attend to the duties of the office during his absence or illness, whose fees shall be directed by the Coroner, out of whose salary such fees shall be paid.

1868, c. 457. Ibid, sec. 152. Deputy.

3. The Coroner shall hold an inquest over any person found dead in said city, when the manner and cause of death shall not be already known as accidental or in the course of

1868, c. 454; Ibid, sec. 153. Coroner's duties.

Jury.

nature; no Coroner's jury in said city shall receive any fee or compensation for services as such, and said Coroner is hereby authorized and empowered to issue his certificate to the register of Baltimore city for the payment of such expenses as may be necessary for the interment of any person over whom he 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.

Proviso.

1868, c. 457; Ibid, sec. 154.

Monthly report to police commissioners.

4. The said Coroner shall make a monthly report to the Police Commissioners of Baltimore city of the number of inquests held by him during the month last passed 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; he shall also, immediately after holding any inquest, deposit in some bank in Baltimore city, subject to the order of the judges of the Orphans' Court of Baltimore city, all property, money and other effects found upon the persons of those over whom he shall hold inquest as hereinbefore provided.[1]

Money, &c. to be deposited in bank.

[1] This act of 1868, c. 457, renders obsolete R. O. No. 45, relative to reports by coroners to comptroller, and employment of physician under act of 1846, c. 168, being secs. 4 to 6 of art. 25, Coroners, P. G. L. See sec. 11, of art. 1, P. G. L.

ARTICLE XII.

COUNSELLOR AND SOLICITOR.

ORDINANCES.

1. Appointment of city counsellor and city solicitor.
2. Duties of counsellor.
3. Duties of solicitor.
4. Solicitor to examine title to property: to endorse opinion on bonds, &c.
5. Extra aid: duties of assistant.
6. Substitute.
7. Extra counsel.
8. Payment to counsel.
9. Salaries of counsellor and solicitor.
10. Appeals: proviso.
11. How writs to be endorsed.

ORDINANCES.

1. The mayor, by and with the advice and consent of the convention of the two branches of the city council, shall, annually in the month of February, appoint a member of the Baltimore bar to be the City Counsellor, and another member of the same bar, to be the City Solicitor.

No. 71, ss. 1, 3, May 18, '64. Appointment of city counsellor and city solicitor.

2. It shall be the duty of the Counsellor to argue all cases in the Supreme Court of the United States, or the Court of Appeals of the State of Maryland, in which the mayor and city council of Baltimore may be a party, and to try all such cases in any court of the United States which may sit within the State of Maryland, or in the Superior Court of Baltimore city, and to try all cases in any other courts which the mayor may specially require him to try; it shall also be his duty to advise with the Solicitor as to the framing of all bills and answers in equity, all pleadings at common law, and all exceptions or other documents connected with proceedings in the courts, whenever the Solicitor may request him so to do; it shall also be his duty to give advice and opinions in writing upon any legal question affecting the interests of the city;

Ibid, s. 6. Duties of counsellor.

which may be submitted to him by the mayor, either branch of the council, or any committee of the council, or by the Solicitor.

Ibid, ss. 2, 4. Duties of solicitor.

3. The Solicitor shall be the attorney of the mayor and city council of Baltimore; and it shall be the duty of the Solicitor to try all cases in which the city is interested in any of the courts of the city of Baltimore, except the Superior Court, and in all other courts in the State of Maryland except those mentioned in the preceding section, and act as junior counsel to the Counsellor in any court in which his services may be required; it shall also be his duty to give advice or opinions in writing upon any legal question affecting the interests of the city, which may be submitted to him by the mayor, either branch of the city council or any committee of the city council, or any officer of the city; it shall also be his duty to report annually to the city council, in writing, the number of cases depending at the time of the report, and any decisions made within the year upon the construction of any ordinance.

Ibid, s. 3. Solicitor to examine title to property.

4. Whenever the corporation of the city shall design to purchase any real property, the title papers shall be furnished to the Solicitor, and no contract shall be made or money paid on account of such purchase except under the advice of the Solicitor, as to the title of the property in question, and the legal sufficiency of the deeds or other instruments intended to convey the same to the city, and all bonds or other written instruments involving the interests of the city, to be executed by or passed to the mayor or other officer of the corporation, shall, before they are executed or received, as the case may be, have endorsed upon them the opinion of the Solicitor as to their legal sufficiency; it shall also be the duty of the Solicitor to give legal advice, whenever required, to the members of the city council, on subjects connected with their official duties, and to prepare all ordinances, resolutions and memorials required of him by any committee of the city council.[1]

To endorse opinion on bonds, &c.

[1] See further duties under Licenses *post*.

Res. No. 140, May 11, '61. Extra aid.

5. The mayor is hereby authorized and empowered to employ some competent person as often as occasion may require, and when in his opinion the interests of the city will thereby be promoted, to aid the Solicitor in the examination of the titles and conveyances of property in which the city of Baltimore is or may be interested, and in the examination of titles in cases connected with the proper discharge of the duties of any branch of the city government, and in preparing cases for trial in which the city of Baltimore is or may be interested, and in which testimony may be properly taken; the person so employed to act under the direction of the Solicitor, and to be employed not permanently, but only to the extent and when in the opinion of the solicitor such employment is proper and necessary; and the mayor is further authorized to employ some competent person, whenever he shall deem it necessary, to collect and put in a book or books, in some simple and intelligible form, abstracts of conveyances and titles of city property, inclusive of wharf property, with all proper details, plats, descriptions and alphabets for reference, and showing the rents and incomes of the parts under rent or lease, and where unproductive, estimating the probable value thereof, which book or books when completed shall be deposited for safe keeping and use in the Register's office, and all additions and changes shall be noted in the said book or books as they may occur, in such manner as may be directed by the mayor.

Duties of assistant.

No. 71, s. 7, May 18, '64. Substitute.

6. If either of the said law officers shall be unable or unwilling to try any case which under the provisions of this ordinance he ought to try, he shall provide, at his own expense, a substitute, who shall be approved by the mayor, and if he shall fail to make such provision in proper time, the mayor shall employ a proper person to supply his place, and the expense shall be charged to him, and deducted from the first money payable to him thereafter.

Ibid, s. 8. Extra counsel.

7. No extra counsel shall be employed on the part of the city in any case, except by virtue of a resolution of the mayor and city council.

Res. No. 15, Mar. 8, '58. Payment to counsel.

8. The register is hereby directed to decline paying to counsel any money for the defence of cases in the Criminal Court, unless an appropriation has been previously made for such payments.

No. 71, s. 9, May 18, '64. Salaries of counsellor and solicitor.

9. The salary of the Counsellor shall be twenty-five hundred dollars per annum, and that of the Solicitor fifteen hundred dollars per annum, payable monthly, which salaries shall be in full of all compensation for their services and of all expenses incurred by them in attending the courts, either in or out of the city.

Ibid, s. 13. Appeals.

10. The approbation of the mayor and consent of the Solicitor shall be obtained before any appeal shall be prosecuted in any case, which approbation shall be in writing and filed in the cause; provided, that before any appeal shall be taken to the Supreme Court of the United States, or the Court of Appeals of the State of Maryland, the approbation of the Counsellor shall also be obtained.

Proviso.

Ibid, s. 10. How writs to be endorsed.

11. Whenever the name of the mayor and city council of Baltimore shall be used in the institution of any suit or other proceeding, the name of the person for whose use, or of the informer at whose instance the same is instituted, shall be endorsed upon the writ.[1]

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[1] See further, as to suits, under Fines and Forfeitures, and Courts, *post*.

MD. STATE LIBRARY.

ARTICLE XIII.

COURTS.

CONSTITUTION, ART. IV.

SUPREME BENCH.

1. Six courts.
2. Jurisdiction of superior court, court of common pleas, and city court.
3. Jurisdiction of circuit court: habeas corpus.
4. Jurisdiction of criminal court.
5. Supreme bench of Baltimore city: term of office: salary.
6. Assignment of judges: may be changed from time to time: jurisdiction: sickness, absence or disability.
7. General terms: rules of court: jurisdiction on motions: right of appeal.
8. No appeal to supreme bench from city court on appeals from justices of the peace: test of writ.
9. Quorum.
10. Cases pending in old courts to be proceeded with: Baltimore city court.
11. Clerks of courts: term of office: salaries: perquisites not allowed: vacancy.
12. Authority of clerks of common pleas and superior courts: licenses: deeds, &c.: Baltimore county court records: clerk to supreme bench.
13. Another court in Baltimore city: re-apportionment of jurisdiction of Baltimore courts: clerks' bonds.

ORPHANS' COURT.

14. Three judges: term of office: jurisdiction: per diem: vacancy.
15. Register of wills: term of office: vacancy.

JUSTICES OF THE PEACE.

16. Governor to appoint justices: mayor and city council to appoint constables: removal: term of office: right of appeal.
17. Vacancies.

SHERIFF.

18. Election of sheriff: qualifications: term of office: bond: vacancy.

STATE'S ATTORNEY.

19. Election of State's attorney: term of office: removal.
20. Returns to be made to judge of criminal court: case of tie.
21. Duties: fees: proviso: deputy.
22. Qualifications.
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27. Fees.
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33. Prosecutor's name on indictment for misdemeanor.
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35. Children of convicts.
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53. Clerk of superior court to keep index of judgments and decrees.
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61. Their salaries.

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63. Stenographers for courts: duties.

64. In orphans' court, his duties: compensation.
65. Assistant stenographers: proviso.

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67. Execution for fees.
68. What officers' fees sheriff to collect.
69. When sheriff may distrain, &c., for fees: proviso.

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71. Number of justices of peace appointed by governor: mayor and city council authorized to appoint constables: when appointment to be made by mayor and city council: proviso.
72. Justice to keep place of business in ward.
73. Office hours.
74. Not to issue but on application of plaintiff or attorney.
75. Before whom summons may be made returnable and case tried.
76. Pay when called from office.
77. To file list of fines imposed with clerk of court of common pleas.
78. If no fines, affidavit of fact.
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SUPERINTENDENT, WATCHMEN AND JANITORS OF COURT HOUSES AND RECORD OFFICE.

1. Superintendent and watchman appointed.
2. Duty of superintendent: register of wills to have control of orphans' court room: superintendent to report annually: expenses not to exceed appropriation: proviso.
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4. Superintendent and watchman to give bond.
5. Salary of superintendent and watchman: proviso.
6. No expense to be incurred unless provided for by this ordinance.
7. Janitor of orphans' court, how appointed: his duties: salary.
8. Janitor of old masonic hall: salary.
9. Watchman of same: salary.

CONSTITUTION, ART. IV, PART IV.

SUPREME BENCH.

Const. art 4, part 4, sec. 27. Six courts.

1. There shall be in the Eighth Judicial Circuit, six Courts,[1] to be styled the Supreme Bench of Baltimore city, the Superior Court of Baltimore city, the Court of Common

[1] As to the jurisdiction of the Baltimore courts before Const. 1867, see *Price* v. *State*, 8 Gill, 296; *State* v. *Mace*, 5 Md. 337; *Manly* v. *State*, 7 Md. 135; *Davis* v. *State*, 7 Md., 152: *Blinline* v. *Cohen*, 8 Md., 147; *Atwell* v. *Grant*, 11 Md., 101; *Abbott* v. *Catch*, 13 Md., 316; *Miller* v. *Kauffman*, 14 Md., 173; *Hugh* v. *Kelsey*, 19 Md., 451; *Bradford* v. *Jones*, 1 Md., 368.

Dobbin, A. J., in *Innes* v. *Carter*, Superior Court, says:

This writ is brought to recover the amount of a promisory note for $100. The defendant pleads in abatement that the sum is below the jurisdiction of the court.

Pleas, the Baltimore City Court,[1] the Circuit Court of Baltimore city, and the Criminal Court of Baltimore.

Ibid, sec. 28, Jurisdiction of superior court, court of common pleas, and city court; 1852, c. 159, 198, 227, 251, 312, 323; 1853, c. 86, 238, 451; 1858, c. 323.

2. The Superior Court of Baltimore city, the Court of Common Pleas, and the Baltimore City Court, shall, each, have concurrent jurisdiction in all civil common Law cases, and, concurrently, all the jurisdiction which the Superior Court of Baltimore city and the Court of Common Pleas now have, except jurisdiction in Equity, and except in applications for the benefit of the Insolvent Laws of Maryland, and in cases of Appeal from judgments of Justices of the Peace in said city, whether civil or criminal, or arising under the ordinances of the Mayor and City Council of Baltimore, of all of which appeal cases the Baltimore City Court shall have exclusive jurisdiction; and the said Court of Common Pleas shall have exclusive jurisdiction in all applications for the benefit of the Insolvent Laws of Maryland, and the supervision and control of the Trustees thereof.

Ibid, sec. 29. Jurisdiction of circuit court.

3. The Circuit Court of Baltimore city shall have exclusive jurisdiction in Equity within the limits of said city, and all

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By the constitution of 1867, this court has all the jurisdiction which it and the Court of Common Pleas had by the constitution of 1864. We are to inquire then whether this court or the Court of Common Pleas would have had jurisdiction to entertain it under the constitution of 1864. In the case of *Nimmo* v. *Palmer*, in this court, which was a case brought to recover a principal sum of exactly $100, I decided that this court had jurisdiction, because it had been uniformly held that a justice of the peace had no jurisdiction, and the Court of Common Pleas had not jurisdiction by the express terms of the constitution; so that this court must have it under that residuary grant of jurisdiction by the constitution of 1864, which confers on it jurisdiction in all other civil cases which are not hereinafter assigned to the Court of Common Pleas. But for this provision, the case in question would not be within any jurisdiction.

Garey, A. J., in *Morling* v. *Depkin*, Common Pleas, held that the Court of Common Pleas has jurisdiction to enter judgment in actions *ex contractu* for less than $100, under the constitution of 1867 and the case of *Abbott* v *Gatch*, but that it has not the power to do so, unless the old jurisdiction of the Superior Court has been invoked. That it is only in cases where the damages claimed exceeded $1,000, that the Superior Court exercised such jurisdiction, and, therefore, it is only in cases where more than $1,000 are claimed in the *narr*, that the Court of Common Pleas now possesses it, that is to say, if the damages claimed in this case had exceeded $1,000, the court would have jurisdiction to enter judgment on the verdict of $80, (which the jury had found,) but the damages being laid at $800, the court did not have the jurisdiction.

[1] The Baltimore City Court was established by the act of 1867, c. 401, but so far as its jurisdiction was therein defined, that act is rendered obsolete by the constitution

such jurisdiction as the present Circuit Court of Baltimore city has; provided, the said Court shall not have jurisdiction in applications for the writ of *habeas corpus* in cases of persons charged with criminal offences.[1] Proviso. Habeas corpus.

4. The Criminal Court of Baltimore shall have and exercise all the jurisdiction, now held and exercised by the Criminal Court of Baltimore, except in such Appeal Cases as are herein assigned to the Baltimore City Court. Ibid, secc. 30. Jurisdiction of criminal court. 1852, c. 344; 1853, c. 33.

5. There shall be elected by the legal and qualified voters of said city, at the election, hereinbefore provided for, one Chief Judge, and four Associate Judges, who, together, shall constitute the Supreme Bench of Baltimore city, and shall hold their offices for the term of fifteen years, subject to the provisions of this Constitution with regard to the election and qualifications of Judges, and their removal from office, and shall exercise the jurisdiction, hereinafter specified, and shall each receive an annual salary of three thousand five hundred dollars, payable quarterly, which shall not be diminished during their term of office; but authority is hereby given to the Mayor and City Council of Baltimore to pay to each of the said Judges an annual addition of five hundred dollars to their respective salaries; provided, that the same, being once granted, shall not be diminished, nor increased, during the continuance of said Judges in office. Ibid, sec. 31. Supreme bench of Baltimore city. Term of office. Salaries. Provisos.

[1] The jurisdiction in *habeas corpus* was defined, before the Constitution, by 1867, c. 144, as follows:

The several circuit courts of this State, the Superior Court of Baltimore city, and the Circuit Court of Baltimore city, and the several and respective judges thereof, out of court, and each of the judges of the Court of Appeals, shall have jurisdiction over the whole State in all matters relative to *habeas corpus*, except those involving the relation of master and apprentice; and the Criminal Court of Baltimore city, and the judge thereof, out of court, within the limits of said city, shall have jurisdiction in matters relative to *habeas corpus* only in cases in which it shall appear, by the application for the writ, that the person applying is committed, detained, confined or restrained of his liberty on a criminal charge, of which the said Criminal Court has jurisdiction, and the said Criminal Court and judge thereof shall not have or exercise any jurisdiction whatever in any case involving the validity or legal effect of any contract or indenture of apprenticeship.

See *Hab. Corp.* case of Young, Valiant and Thomson in report of Police Commissioners, Jan., 1867.

Ibid, sec. 32. Assignment of judges.

6. It shall be the duy of the said Supreme Bench of Baltimore city, as soon as the Judges thereof shall be elected and duly qualified, and from time to time, to provide for the holding of each of the aforesaid Courts, by the assignment of one, or more of their number to each of the said Courts, who may sit either separately or together, in the trial of cases; and

May be changed from time to time.

the said Supreme Bench of Baltimore city may, from time to time, change the said assignment, as circumstances may require, and the public interest may demand; and the Judge, or Judges, so assigned to the said several Courts, shall, when holding the same, have all the powers and exercise all the

Jurisdiction.

jurisdiction, which may belong to the Court so being held; and it shall also be the duty of the said Supreme Bench of Baltimore city, in case of the sickness, absence or disability

Sickness, absence or disability.

of any Judge or Judges, assigned as aforesaid, to provide for the hearing of the cases, or transaction of the business assigned to said Judge, or Judges, as aforesaid, before some one or more of the Judges of said Court.

Ibid, sec. 33. General terms.

7. The said Supreme Bench of Baltimore city shall have power, and it shall be its duty, to provide for the holding of as many general Terms as the performance of its duties may require, such general Terms to be held by not less than three

Rules of court.

Judges; to make all needful rules and regulations for the conduct of business in each of the said Courts, during the session thereof, and in vacation, or in Chambers, before any of said

Jurisdiction on motions.

Judges; and shall also have jurisdiction to hear and determine all motions for a new trial in cases tried in any of said Courts, where such motions arise, either on questions of fact, or for misdirection upon any matters of law, and all motions in arrest of judgment, or upon any matters of law determined by the said Judge, or Judges, while holding said several Courts; and the said Supreme Bench of Baltimore city shall make all needful rules and regulations for the hearing before

Right of appeal.

it of all of said matters; and the same right of appeal to the Court of Appeals shall be allowed from the determination of the said Court on such matters, as would have been the right

of the parties if said matters had been decided by the Court in which said cases were tried.

8. No appeal shall lie to the Supreme Bench of Baltimore city from the decision of the Judge, or Judges, holding the Baltimore City Court, in case of appeal from a Justice of the Peace; but the decision by said Judge, or Judges, shall be final; and all writs and other process issued out of either of said Courts, requiring attestation, shall be attested in the name of the Chief Judge of the said Supreme Bench of Baltimore city. Ibid, sec. 34. No appeal to supreme bench from city court on appeals from justices of the peace. Test of writs.

9. Three of the Judges of said Supreme Bench of Baltimore city, shall constitute a quorum of said Court. Ibid, sec. 35. Quorum.

10. All causes depending, at the adoption of this Constitution, in the Superior Court of Baltimore city, the Court of Common Pleas, the Criminal Court of Baltimore, and the Circuit Court of Baltimore city, shall be proceeded in, and prosecuted to final judgment, or decree, in the Courts, respectively, of the same name established by this Constitution, except cases belonging to that class, jurisdiction over which is by this Constitution transferred to the Baltimore City Court, all of which shall, together with all cases now pending in the City Court of Baltimore, be proceeded in, and prosecuted to final judgment in said Baltimore City Court. Ibid, sec. 36. Cases pending in old courts to be proceeded with. Baltimore city court.

11. There shall be a Clerk of each of the said Courts of Baltimore city, except the Supreme Bench, who shall be elected by the legal and qualified voters of said city, at the election to be held in said city on the Tuesday next after the first Monday of November, in the year eighteen hundred and sixty-seven, and shall hold his office for six years from the time of his election, and until his successor is elected and qualified, and be re-eligible thereto, subject to be removed for wilful neglect of duty, or other misdemeanor in office, on conviction in a Court of Law. The salary of each of the said Clerks shall be thirty-five hundred dollars a year, payable only out of the fees and receipts collected by the Clerks of said city, and they shall be entitled to no other perquisites, or compensation. In case of a vacancy in the office of Clerk of Ibid, sec. 37. Clerks of courts. Term of office. Salaries. Perquisites not allowed. Vacancy.

any of said Courts, the Judges of said Supreme Bench of Baltimore city shall have power to fill such vacancy until the general election of Delegates to the General Assembly, to be held next thereafter, when a Clerk of said Court shall be elected to serve for six years thereafter; and the provisions of the Constitution in relation to the appointment of Deputies by the Clerks of the Circuit Courts in the counties shall apply to the Clerks of the Courts in Baltimore city.

Ibid, sec. 38. Authority of clerks of common pleas and superior court. Licenses.

12. The Clerk of the Court of Common Pleas shall have authority to issue within said city, all marriage and other licenses required by law, subject to such provisions as are now, or may be prescribed by law. The Clerk of the Superior Court of said city shall receive and record all Deeds, Conveyances, and other papers, which are, or may be required by law, to be recorded in said city. He shall also have custody of all papers connected with the proceedings on the Law, or Equity side of Baltimore County Court, and of the Dockets thereof, so far as the same have relation to the city of Baltimore, and shall also discharge the duties of Clerk to the Supreme Bench of Baltimore city, unless otherwise provided by law.

Deeds, &c.

Baltimore county court records.

Clerk to supreme bench.

Ibid, sec. 39. Another court in Baltimore city. 1853, c. 122, 391, 1867, c. 401.

13. The General Assembly shall, whenever it may think the same proper and expedient, provide, by law, another Court for the city of Baltimore, and prescribe its jurisdiction and powers; in which case there shall be elected by the voters of said city, qualified under this Constitution, another Judge of the Supreme Bench of Baltimore city, who shall be subject to the same constitutional provisions, hold his office for the same term of years, receive the same compensation, and have the same powers, as are herein provided for the Judges of said Supreme Bench of Baltimore city; and all of the provisions of this Constitution relating to the assignment of Judges to the Courts, now existing in said city, and for the dispatch of business therein, shall apply to the Court, for whose creation provision is made by this section. And the General Assembly may reapportion, change or enlarge the jurisdiction of the several Courts in Baltimore city. Until otherwise provided by law, the

Re apportionment of jurisdiction of Baltimore courts.

Clerk of the Superior Court of Baltimore city, of the Court of Common Pleas, of the Circuit Court of Baltimore city, of the Baltimore City Court, and of the Criminal Court of Baltimore, shall each give bond in such penalty as is now prescribed, by law, to be given by the Clerks of the Courts, bearing the same names, under the present Constitution. Clerks' bonds.

ORPHANS' COURT.

14. The qualified voters of the city of Baltimore, shall, on the Tuesday next after the first Monday in November next, and on the same day in every fourth year thereafter, elect three men to be Judges of the Orphans' Court of said city, who shall be citizens of the State, and residents for the twelve months preceding, in the city. They shall have all the powers now vested in the Orphans' Courts of the State, subject to such changes as the Legislature may prescribe.[1] Each of said Judges shall be paid a per diem for the time they are actually in session, to be regulated by law, and to be paid by the said city. In case of a vacancy in the office of Judge of the Orphans' Court, the Governor shall appoint, subject to confirmation or rejection by the Senate, some suitable person to fill the same for the residue of the term. Art. 4, part 5, sec. 40. Three judges, Term of office. 1852, c. 20, 48, 62, 73, 139, 247, 290, 341. 1853, c. 81, 147, 271, 333, 385, Jurisdiction. Per diem. Vacancy.

15. There shall be a Register of Wills in the city of Baltimore, to be elected by the legal and qualified voters of said city, who shall hold his office for six years from the time of his election, and until his successor is elected and qualified; he shall be re-eligible, and subject at all times to removal for wilful neglect of duty, or misdemeanor in office, in the same manner that the Clerks of the Courts are removable. In the event of any vacancy in the office of Register of Wills, said vacancy shall be filled by the Judges of the Orphans' Court, Ibid, sec. 41. Register of wills. Term of office. Vacancy.

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1 The Orphans' Court derives its powers from statutory provisions. It has no jurisdiction over real estate or trusts. Its jurisdiction is confined to the express letter of its authority. *Taylor* v. *Bruscup*, 27 Md., 219; *Craufurd's* adm. v. *Craufurd*, 22 Md., 466; *Price* v. *Taylor*, 21 Md., 365; *Townsend* v. *Brooke*, 9 Gill, 90; *Lowe* v. *Lowe*, 6 Md., 352; *Hayden* v. *Burch*, 9 Gill, 82.

As to register of wills, see *Sappington* v. *Scott*, 14 Md., 40.

until the next general election for Delegates to the General Assembly, when a Register shall be elected to serve for six years thereafter.

JUSTICES OF THE PEACE.

Const. art. 4, part 6. sec. 42. Governor to appoint justices. Mayor and city council to appoint constables. 1852, c. 274; 1853, c. 102; 1854, c. 302.

16. The Governor, by and with the advice and consent of the Senate, shall appoint such number of Justices of the Peace, and the Mayor and City Council of Baltimore shall appoint such number of Constables, for the several wards of the City of Baltimore, as are now, or may hereafter be prescribed by law; and Justices of the Peace and Constables, so appointed, shall be subject to removal by the Judge of the Criminal Court, for incompetency, wilful neglect of duty, or misdemeanor in office, on conviction in a Court of Law.[1] The Justices of the Peace and Constables, so appointed, and commissioned, shall be Conservators of the Peace, shall hold their office for two years, and shall have such jurisdiction, duties and compensation, subject to such right of appeal, in all cases, from the judgment of Justices of the Peace, as hath been heretofore exercised, or shall be hereafter prescribed by law.

Removal.

Term of office. Jurisdiction. 1852, c. 176, 239; 1853, c. 201; 1854, c. 225, 236. Right of appeal.

Ibid, sec. 43. Vacancies. 1860, c. 7.

17. In the event of a vacancy in the office of a Justice of the Peace, the Governor shall appoint a person to serve, as Justice of the Peace, for the residue of the term; and in case of a vacancy in the office of Constable, the Mayor and City Council of Baltimore shall appoint a person to serve as Constable for the residue of the term.

SHERIFF.

Const., art. 4, part 7, sec. 44. Election of sheriff. Qualifications.

18. There shall be elected in the city of Baltimore, in every second year, one person, resident in said city, above the age of twenty-five years, and at least five years preceding

[1] As to indictment at common law of justice of the peace for malfeasance in office, see *Hiss* v. *State*, 25 Md., 556. As to justices before Const., 1864, see *Taylor* v. *Hebden*, 202; *Cantwell* v. *Owens*, 14 Md., 215; *State* v. *Mace*, 5 Md., 337; *Mayor, &c.* v. *State*, 15 Md., 378.

his election, a citizen of this State, to the office of Sheriff. He shall hold his office for two years, and until his successor is duly elected and qualified; shall be ineligible for two years thereafter; shall give such bond, exercise such powers, and perform such duties as now are, or may hereafter be fixed by Law.[1] In case of a vacancy by death, resignation, refusal to serve, or neglect to qualify, or give bond, or by disqualification, or removal from the city, the Governor shall appoint a person to be Sheriff for the remainder of the official term.

Term of office. Bond. Vacancy.

STATE'S ATTORNEY.

19. There shall be an Attorney for the State in the city of Baltimore, to be styled "The State's Attorney," who shall be elected by the voters thereof, respectively, on the Tuesday next after the first Monday in November in the year eighteen hundred and sixty-seven, and on the same day every fourth year thereafter; and shall hold his office for four years from the first Monday in January next ensuing his election, and until his successor shall be elected and qualified; and shall be re-eligible thereto, and be subject to removal therefrom, for incompetency, wilful neglect of duty, or misdemeanor in office, on conviction in a Court of law, or by a vote of two-thirds of the Senate, on the recommendation of the Attorney General.

Const., art. 5. part 2, sec. 7. Election of State's attorney. Term of office. Removal.

20. All elections for the State's Attorney shall be certified to, and returns thereof made to the Judge of the Criminal Court, whose duty it shall be to decide upon the elections and qualifications of the persons returned; and, in case of a tie between two or more persons, to designate which of said persons shall qualify as State's Attorney, and to administer the oaths of office to the Person elected.

Ibid, sec. 8. Returns to be made to judge of criminal court. Case of tie.

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[1] Though the Constitution provides for filling the office of sheriff, it does not specify or describe his powers and duties; these are left to the common law and acts of assembly, and may be changed by law. *Mayor, &c.* v. *State*, 15 Md., 379. See *Hatcheson* v. *Tilden*, 4 H. & McH., 279; *Roberts* v. *Gibson*, 6 H. & J., 116; *State* v. *Wyman*, 2 G. & J., 254; *Kilty* v. *Hammond*, 3 H. & McH., 149; *Hardesty* v. *Wilson*, 2 Gill, 487.

Ibid, sec. 9. Duties. Fees.

21. The State's Attorney shall perform such duties and receive such fees and commissions as are now, or may hereafter be, prescribed by law, and if the State's Attorney shall receive any other fee[1] or reward, than such as is, or may be allowed by law, he shall, on conviction thereof, be removed from office; provided, that the State's Attorney for Baltimore city shall have power to appoint one Deputy, at a salary of not more than fifteen hundred dollars per annum, to be paid by the State's Attorney out of the fees of his office, as has heretofore been practiced.

Proviso.

Deputy in Baltimore city.

Ibid, sec. 10. Qualifications.

22. No person shall be eligible to the office of State's Attorney, who has not been admitted to practice law in this State, and who has not resided, for at least two years, in the county, or city, in which he may be elected.

Ibid, sec. 11. Vacancy.

23. In case of vacancy in the office of State's Attorney, or, of his removal from the city in which he shall have been elected, or, on his conviction, as herein specified, the said vacancy shall be filled by the Judge of the Criminal Court, for the residue of the term thus made vacant.

Ibid, sec. 12. To collect, &c., money for the State.

24. The State's Attorney, in the city of Baltimore, shall have authority to collect, and give receipt, in the name of the State, for such sums of money as may be collected by him, and forthwith make return of, and pay over the same, to the proper accounting officer.[2] And the State's Attorney of the

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[1] 1864, c. 243, provides that in any case where judgment shall be recovered by the State against any principal debtor and a surety or sureties, and said judgment shall be satisfied by said surety or sureties, the same shall be entered by the attorney representing the State to the use of the surety or sureties satisfying the same, on the said attorney filing in the case a certificate of the comptroller stating that said judgment has been so satisfied, and said surety or sureties shall then be entitled to execution in his or their own name or names against the principal and the other sureties.

Before this act, where a judgment in favor of the State was paid by a surety, there was no statute which authorized an assignment thereof to such surety to be made by any officer or agent of the State, and it could not be done under 1793, c. 23, s. 8, (P. G L., Art. 9, sec. 6,) by the States's attorney. *Peacock* v. *Pembroke*, 8 Md., 348.

[2] See *Martin* v. *State*, 1 H. & J., 721.

city of Baltimore, before he shall enter on the discharge of his duties, shall execute a bond to the State of Maryland, for the faithful performance of his duties, in the penalty of ten thousand dollars, with two or more sureties, to be approved by the Judge of the Criminal Court. Bond.

COURT OFFICERS.

25. Such officers of the Courts in the city of Baltimore as may be found necessary shall be appointed by the Judges of the Supreme Bench of Baltimore city. It shall be the duty of the General Assembly to prescribe, by law, a fixed compensation for all such officers; and said Judges shall, from time to time, investigate the expenses, costs and charges of their courts, with a view to a change or reduction thereof, and report the result of such investigation to the General Assembly for its action. Const., art. 4, part 1, sec. 9. Officers of court, how appointed. Compensation. Judges to investigate and report.

STATUTES.

SUPERIOR COURT, COURT OF COMMON PLEAS AND CITY COURT.

1. The stated terms of the Superior Court of Baltimore city, the Court of Common Pleas, and the Baltimore City Court, shall commence on the second Monday in January, the second Monday in May, and the second Monday in September in each year.[1] P. L. L., art. 4, secs. 160, 171; 1867, c. 401, s. 6. Terms.

2. In addition to the first day of each term of the Superior Court of Baltimore city, the Court of Common Pleas and the Baltimore City Court, the second Monday in February, March, April, June, July, October, November and December, in each year, shall be return days.[2] 1864, c. 6, s. 1; 1867, c. 401, s. 6. Return days.

[1] As to jurisdiction in appeals from street commissioners, under Const., art. 4, part 4, sec. 28, (sec. 2, p. 120, *ante*,) and P. G. L., art. 29, secs. 51, 52, 53, 60, see streets, *post*.

[2] 1861, c. 4 repealed secs. 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 172, 173 of art. 4, P. L. L., being the act of 1858, c. 323, for the dispatch of business in the Superior Court and Court of Common Pleas of Baltimore city. The act of 1864, c. 6 enacted the above, being a re-enactment of said repealed sections with amendments.

Held that, under the act of 1858, c. 323, a plaintiff could obtain judgment by default on an open account, verified by affidavit, at the term or on the rule day

1864, c. 6, s. 2. Writ may be made returnable to next return day.

3. Any person instituting an action in either of said courts, may, at his election, have his original writ made returnable to the next succeeding return day, or, to the first day of the next succeeding term.

Ibid, s. 3. Writ may be renewed.

4. On the return of any original writ not executed in either of said courts, the same may be renewed, returnable to the next return day thereafter, or to the next term of the said court from which said original writ was issued.

Ibid, s. 4. Same proceedings when returned at return day as at term.

5. After the execution of any original writ made returnable to a return day in either of the said courts, the same proceedings may be had in the prosecution of the said writ as would be proper in case the said writ had been made returnable, and had been returned to a term of the court from which the same was issued.

Ibid, s. 5. Judgment by default, when to be given.

6. If a defendant regularly returned summoned to appear at a stated term or a return day of the court from which the original writ was issued, shall fail to appear on the day to which the said writ was returnable, judgment for his default may, on motion of the plaintiff made in writing, and filed with the clerk of the court from which said original writ was issued, be entered by the said court or by the said clerk against the said defendant; which said judgment shall be stricken out on his appearance being entered to the action at any time before the first return day thereafter; and if the

When to be struck out.

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to which the defendant was summoned and failed to appear, but the court could not, at the same term, extend such judgment by assessment of damages and costs: and that the plaintiff, in such a case, was entitled to final judgment only in case the defendant failed to appear before the first day of the term or rule day next thereafter, and then the judgment could go only for the amount of the account thus authenticated: but that the court has no power to allow interest on the account which should have been ascertained by a jury on a writ of inquiry. [But see 1864, c. 175, P. G. L. art. 75, sec. 62, and 1864, c. 6, s. 9,—sec. 10, above.] Held further, that though the final judgment would be struck out because improperly and prematurely extended and because interest was allowed by the court, yet the judgment by default, for the defendant's failure to appear would not be disturbed. *Mailhouse* v. *Inloes et al.* 18 Md. 328. See *Gardner* v. *Jenkins*, 14 Md. 60. The act of 1858, c. 323, did not conflict with the right of removal of causes from one court to another, provided for by the Constitution and Acts of Assembly. *Griffin* v. *Leslie*, 20 Md. 19.

said defendant shall fail to appear within the time above limited, the party plaintiff may sue out his writ of inquiry, or otherwise enter up final judgment, according to the course of the court. Writ of inquiry.

7. Every suit where the cause of action is a contract, whether in writing or not, or whether express or implied, shall stand for trial or judgment on the first day of the term, or at the return day next succeeding the entry of the appearance of the defendant, whichever shall first happen, unless the time shall be extended by the court on cause shown. Ibid, s. 6. Trial term, when.

8. In any action brought for any of the causes mentioned in the last preceding section, the plaintiff, if he make affidavit or affirmation as hereinafter stated, shall be entitled to judgment on the first day of the term of the court in which said action is pending, or at the return day next succeeding the appearance of the defendant, whichever shall first happen or occur, although the defendant may have pleaded, unless such plea contains a good defence, and unless the defendant, or some one in his behalf, shall make oath or affirmation that the said plea is true, and that he verily believes that he will be able, at the trial of the cause, to produce sufficient evidence to support the said plea. Ibid, s. 7. Plaintiff, how and when entitled to judgment.

9. The plaintiff shall not be entitled to judgment under either of the three preceding sections, unless at the time of bringing his action he shall file with his declaration an affidavit or affirmation, if he is conscientiously scrupulous as to taking an oath, stating the true amount that the defendant is indebted to him, over and above all discounts, and shall also file the bond, bill of exchange, promissory note, or other writing or account by which the defendant is so indebted; and the said affidavit or affirmation, may be made before any of the persons who may take an affidavit or affirmation, to authorize the issuing of a foreign attachment, and may be certified in the same manner. Ibid, s. 8. Plaintiff's affidavit, &c.

10. When any judgment by default shall be entered under the preceding sections, the court may assess the damages on proof thereof, without empanelling a jury to do so. Ibid, s. 9. Assessment of damages by court.

Ibid, s. 10. Writs returnable at election of plaintiff.

11. Writs of execution issued out of the Superior Court of Baltimore, or the Court of Common Pleas, may be made returnable, at the election of the plaintiff, to the next succeeding return day of the court from which said writ was issued, or to the next succeeding term of the said court.

1864, c. 49. When execution may issue on judgments of courts.

12. On all judgments rendered in the Court of Common Pleas, the City Court, and the Superior Court of Baltimore, and on all judgments by default, when extended according to law and the course of the court, execution may issue at any time after judgment rendered or extended as aforesaid, and the nineteenth section of the twenty-ninth article of the Public General Laws, relating to writs of execution, shall not apply to the city of Baltimore, so far as the same relates to the stay on judgments.

CIRCUIT COURT.

P. L. L., art. 4, sec. 174. Terms.

13. The regular terms for the sitting of the Circuit Court of Baltimore city, shall be on the second Monday of November, and on the second Monday of each alternate month thereafter, throughout the year.

P. G. L., art. 29, sec. 58. Jury.

14. Whenever in any case instituted in the Circuit Court, a jury is asked for and allowed, or is desired by the judge thereof, the judge shall issue an order to the sheriff of Baltimore city, requiring him to summon twenty jurors to attend the court, when proceedings shall be had in such case as is usual in like cases in equity.

CRIMINAL COURT.

P. L. L., art. 4, sec. 175. Terms.

15. The Criminal Court of Baltimore shall hold three regular sessions yearly, to commence on the second Monday of January, second Monday of May, and second Monday of September; and such sessions shall continue until all the business before it shall be finished.

Ibid, sec. 176. Cases.

16. At such special sessions of said court, all cases may be tried and disposed of as at the regular terms thereof.

17. The Criminal Court of Baltimore shall have jurisdiction in all cases of felony, and other crimes, offences and misdemeanors within the city of Baltimore.[1] P. G. L., art. 29, sec. 59. Jurisdiction.

18. All commitments and recognizances for all felonies, crimes, offences and misdemeanors committed within said city, shall be returned from time to time by any justice of the peace taking the same before said court, and shall be lodged with the clerk of said court on the day next preceding the day appointed for holding the said court. Ibid, sec. 62; P. L. L., art. 4, sec. 177. Commitments and recognizances.

19. The justices of the peace for Baltimore city, whenever they shall commit any person for want of bail, for trial, on charges of assault and battery, for keeping a disorderly house, or for violation of article fifty-six of Code of Public General Laws entitled, Licenses, and for any other small offences for which no greater punishment than fine and imprisonment can be imposed, shall endorse on said commitments the names and places of residence of the witnesses, who shall have appeared before them on behalf of the prosecution, and shall recognize said witnesses to appear before said court on the next Saturday thereafter. P. L. L., art. 4, sec. 179. Witnesses to be recognized to.

20. The warden of Baltimore city jail shall, on receiving said commitment, enter the names and places of residence of said witnesses on his docket, and shall, on demand, give a copy thereof to the accused, together with a copy of the commitment. Ibid, sec. 180. Warden's duty.

21. The said warden shall bring before the Criminal Court every person who may be committed to jail for want of bail for any of the offences mentioned in above section seventeen, on the Saturday next succeeding his or her commitment; and if the said person shall think proper to waive his or her right to a trial by jury, and have his or her cause heard and deter- Ibid, sec. 181. Warden to bring prisoners before court. Trial before court.

[1] *Larceny.* 1864, c. 50, (Sup. '61–'67, p. 87,) provides that any person convicted in the Criminal Court of Baltimore, of larceny committed in Baltimore city, to an amount under five dollars, may, in the discretion of the judge of the said court, be sentenced to hard labor in the jail of Baltimore city for not less than six months, nor more than two years, instead of the penitentiary.

mined in a summary way, the said court shall hear and determine the same, and the same shall be proceeded with in the same manner, and to the same legal effect, as if submitted on presentment or indictment by the grand jury.

Ibid, sec. 182. Original commitment.

22. The said warden shall file with the clerk of said court the original commitment, or a copy thereof, on the day preceding the trial.

Ibid, sec. 183. Costs.

23. The clerk of said court shall tax only half the legal charges in such cases, established by law in cases of indictment found by a grand jury; and all cases of presentment for violation of the provisions of article fifty-six of the Code, may be tried upon said presentment, and be chargeable with only half the legal costs chargeable in such cases, when tried upon indictment.

Ibid, sec. 184. When capias to be re-issued.

24. It shall be the duty of the sheriff to make return of all capias upon presentment or indictment from said court, within five days after the same is delivered to him by the clerk, and if said capias is returned non est, the clerk shall, in the discretion of the State's attorney of Baltimore city, order said capias to be re-issued, and the same capias shall again be delivered to the sheriff; and the date of the first return thereof shall be endorsed thereon; and the second return shall be made within the time above specified; and in case the said capias is returned the second time non est, the same shall be again so endorsed and delivered to the sheriff.

Time within which to be returned.

Ibid, sec. 185. Fees.

25. The clerk of the said court, and the sheriff of the said city, shall be allowed only the fees for the issue of one capias, or for the service of one capias in each term, however often the same may be issued or returned.

Ibid, sec. 186. Subpœnas for witnesses.

26. All subpœnas for witnesses from said court, shall be returned by the sheriff within six days after the same are issued by the clerk, or within six days after the day of the renewal of such subpœnas, unless the same are ordered to be returned immediately, in which case they shall be so returned if practicable.

27. The said sheriff shall be allowed for the service of one subpœna only, against any witness that may be returned non est, and for whom the said subpœna may be renewed, whether once or oftener in one term. Ibid, sec. 187. Fees.

28. The clerk of said court, if a subpœna is renewed by order of the State's attorney, or by the counsel of the prisoner or traverser, shall endorse the renewal on the subpœna, and the same shall have all the legal effect of a new subpœna issued in the term of said court, during which said subpœna was first issued. Ibid, sec. 188. Renewal of subpœnas.

29. The sheriff of said city shall be subject to a penalty of five dollars in each case in which returns are not made within the times prescribed in this article. Ibid, sec. 189. Penalty on sheriff.

30. The judge of said court shall hold a court every Saturday during the year, on which day no petit jury shall be in attendance, unless such jury has been empanelled, and the case before it not concluded. P. G. L., art. 29, sec. 61. Saturday court. No jury.

31. In all cases of misdemeanor, which may be prosecuted in said ceurt, at the instance of any person, if the party or parties so prosecuted shall be acquitted, all the legal costs and expenses attending the prosecution shall be paid by the person at whose instance such prosecution was commenced, unless the court shall certify that there was probable cause for the prosecution. Ibid, sec. 64. When prosecutor to pay costs.

32. The same process may be issued for the recovery of the costs and expenses of such prosecution against the person who may become liable therefor under the last preceding section, as could be issued against the party prosecuted, if he, she or they had been convicted. Ibid, sec. 65. How costs recovered.

33. Whenever the grand jury shall find any presentment against any person for a misdemeanor, they shall endorse on the presentment the name of the person at whose instance such presentment is made, who shall be deemed and taken to be the person at whose instance such prosecution was commenced. Ibid, sec. 66. Prosecutor's name on indictment for misdemeanor.

Ibid, sec. 67. Judge or court to accept surrender by bail.

34. If any security in any recognizance shall request to deliver up the principal, the said court, or the judge thereof in the recess, may accept such surrender, and may require and take other recognizance, or commit the principal to jail until he gives such security as the law requires.

Ibid, sec. 68. Children of convicts.

35. If any person convicted in said court shall have a child or children under the age of twenty-one years, and shall not have property sufficient to maintain such child or children, the said court may bind such child or children to any trade or handicraft; females until the age of sixteen, and males until the age of twenty-one years.

Ibid, sec. 69. Fine on witnesses.

36. If any person, who shall be summoned as a witness to said court, shall fail to attend as required in said summons, he shall be fined by said court in its discretion, not exceeding one hundred and fifty dollars.

Ibid, sec. 70; P. L. L., art. 4, sec. 132. When bail liable to attachment for contempt.

37. In all criminal cases in the said court, in which bail shall be forfeited, the person or persons who shall have entered into such recognizance or recognizances for the appearance of any traverser or prisoner, shall be liable forthwith to an attachment for contempt for the non-appearance of the said party, which attachment shall be issued by the court in which an indictment against said traverser or prisoner is pending, at the instance of the attorney prosecuting therein.

Ibid, sec. 71; Ibid, sec. 133. To be committed till payment.

38. In all cases in which bail as aforesaid is forfeited, the court may, on the return of said attachment, order the person or persons attached to stand committed until the amount of said recognizance is fully paid and satisfied, or may order said person or persons to be discharged upon the payment of such lesser sum as it shall, in its discretion, deem proper; provided, such sum be not less than the amount of the costs, which may have accrued in the case up to the time of passing such order.[1]

Proviso.

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[1] Grason, J., in *Bly's case*, on *hab. corp.*, in Circuit Court for Baltimore county, Oct., 1868, decided that the act of 1854, c. 114, being sections 37 and 38, above was unconstitutional on the ground that a recognizance is not only legally de-

39. In all criminal cases removed from the Circuit Court for Baltimore county to the Criminal Court of Baltimore and tried, the judge of the Criminal Court may allow to the State's attorney for Baltimore, in addition to the sum now allowed by law, a compensation not exceeding thirty dollars in any one case, to be paid by Baltimore county to the register of the city for the benefit of the State's attorney.[1] P. L. L., art. 4, sec. 84. Fees to State's attorney in removed cases.

40. The Criminal Court of Baltimore may appoint assistant counsel for the State to aid in the trial of criminal or other State cases in said court, whenever in the judgment of the court the public interest requires it. P. G. L., art. 29, sec. 7. Assistant counsel.

41. The mayor and city council of Baltimore shall levy and pay such sum as in their judgment will be an adequate compensation for the services rendered by such assistant counsel; provided, the sum levied and paid in any single case shall not exceed one hundred dollars. Ibid, sec. 8. Compensation. Proviso.

ORPHANS' COURT.

42. The judges of the Orphans' Court of Baltimore city shall receive six dollars for every day's attendance upon the sessions of said court to be paid by the city of Baltimore. 1855, c. 169. Judges' pay.

43. The bailiff of said Orphans' Court shall receive four dollars a day for each day's attendance upon said court. 1868, c. 20. Pay of bailiff.

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fined as an obligation of record, but in language and substance is a debt; and the object of the act of 1854 evidently being to collect this debt by the process of attachment of the person in the mode prescribed, this the Legislature could not constitutionally authorize to be done. *Mace* v. *State*, 5 Md., 350; *Thompson* v. *State*, 16 *Ind.* R., 516. Dec. of Rights, art. 23, 25.

1 1865, c. 187, (Sup. 61–67, p. 190,) provides that judges of the courts, to which any cause or causes may be removed under that act, shall allow such compensation, not exceeding the sum of forty dollars in any one case, to the State's attorney, for his services in appearing to or trying said cause or causes, as the said judge may deem just and proper, said allowance not to exceed forty dollars in any one case, to be borne and paid by the county from which said causes may be removed, or by the city of Baltimore, as the case may be. See *Mayor, &c.* v. *Co. Com. Balt. Co.*, 19 Md., 554; *Co. Com. Howard Co.* v. *Co. Com. Fred'k Co.*, 30 Md.

P. L. L., art. 4, sec. 630. When intestate mariner's estates to devolve on C. M. society.

44. Whenever a mariner residing in or sailing to or from the port of Baltimore, shall depart this life intestate, and leaving no relations within the fifth degree, to be reckoned by counting down from the common ancestor to the more remote, the whole surplus estate of such mariner, after paying debts, funeral expenses and costs of administration, shall devolve on and become the property of the Charitable Marine Society of Baltimore.[1]

REGISTER OF WILLS.

Ibid, sec. 824. Bond.

45. The Register of Wills for Baltimore city, upon his election or appointment, and at or before the expiration of every two years thereafter, shall give bond to the State of Maryland in the sum of thirty thousand dollars, conditioned for the faithful performance of all the duties now or which may hereafter be required of him by law, with securities, the sufficiency of which shall be certified by the judges of the Orphans' Court for said city, the same to be approved by the comptroller, and, when approved, to be filed in his office.

Ibid, sec. 825. Approval of bond.

46. When said bond is inspected by the judges of said court, and is deemed good and sufficient, and is so certified, the same shall be forthwith entered among the proceedings of said court, and sent to the comptroller for his approval, and when said bond shall be approved by the comptroller, he shall forthwith make a certificate of the fact of such approval, and send the said certificate to the judges of said Orphans' Court, and the same shall be entered among the proceedings of the court.

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[1] In 1835, application was made by an officer of the above society for letters of administration on the estate of a seaman who died abroad in ———. This was resisted by H. having the funds of the deceased in his hands, and claiming to retain a portion of it for services rendered, the deceased having no kindred: held, that H. on proving himself to be a creditor, would be entitled to administration; and that in the absence of such proof, the Orphans' Court could grant letters in their discretion. *Hoffman* v. *Gould*, 8 G. & J., 79. See Code, P. G. L., art. 93, sec. 136; *C. H. School* v. *Greenwell*, 4 G. & J., 407; *Thomas, adm'r.* v. *Fred. Co. School*, 7 G. & J., 369.

47. A refusal or neglect on the part of said register to give bond, to be approved and recorded as aforesaid within the time prescribed, shall be deemed a disqualification within the meaning of the Constitution, and thereupon his place shall be filled according to the provisions of the twenty-fifth and forty-first sections[1] of the fourth article of the Constitution, and subject to the term and service therein prescribed.

Ibid, sec. 826. Neglect to bond to vacate office.

CLERKS OF COURTS.

48. The Clerk of the Superior Court of Baltimore city shall give bond to the State of Maryland in the sum of thirty thousand dollars, conditioned for the faithful performance of all the duties now required of him by law, or which may hereafter be required of him by law, with sufficient securities; the sufficiency of which securities shall be certified to by the judge of said court, and approved by the comptroller as herein directed.[2]

P. G. L., art. 18, sec. 66. Bond of clerk of Superior Court. 1854, c. 409, s. 2; 1856, c. 286, ss. 1, 4.

49. When the sufficiency of the securities in said bond is certified to by the judge, the bond shall be immediately recorded among the proceedings of said court, and then sent to the comptroller for his approval; and if the comptroller

Ibid, sec. 67. Approval. 1856, c. 286, s. 4.

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[1] Sec. 15, p. 125, *ante*.

[2] The Const. of 1851, Art. 4, sec. 14, and Const. 1864, art. 4, secs. 29, 39, provided that the clerk of the Superior Court of Baltimore city should be subject "to be removed for wilful neglect of duty, or other misdemeanor in office, on conviction in a court of law." The act of 1856, c. 286, s. 5, enacted that "a refusal or neglect" on the part of this clerk to give the bond prescribed by this act "within thirty days after its passage, shall be deemed a disqualification within the meaning of the Constitution," and directed his place to be filled by the judge of the court, as provided in case of a vacancy by the provisions of the Constitution. Held, that this section of the act in question was unconstitutional, because it provided for the removal of the clerk in a manner directly in conflict with the one prescribed by the Constitution. Before the clerk could be removed for such failure to give bond, he must be convicted therefor in "a court of law of wilful neglect of duty in office," [sec. 51.] The Constitution of 1851, Art. 4, sec. 16, made all existing laws relating to the former clerks applicable to the new clerks to be elected under that instrument, and gave the Legislature power from time to time to amend and alter them, and under this provision, the Legislature had the power to pass the act of 1856, c. 286, [secs. 48, 49, 50, and 52,] with the exception of s. 5, [which is sec. 51 modified to conform to this decision.] *Dowling* v. *Smith*, 9 Md , 242. See Const. 1867, Art. 4, secs. 37, 39.

shall approve said bond and securities, he shall certify the same to the judge of said court, and such certificate shall be recorded in said court.

Ibid, sec. 68. Renewal of bond. 1856, c. 286, s. 8.

50. The said clerk shall, every second year, renew his said bond in the same penalty, and with securities to be certified and approved as hereinbefore directed.

Ibid, sec. 69. Failure to give bond. 1856, c. 286, s. 5.

51. If the clerk of said court shall fail to give bond as herein directed, within thirty days after he has received his commission, or shall fail to give a new bond within thirty days after the expiration of two years from the date of the bond previously given, it shall be regarded as a misdemeanor in office, and upon conviction thereof, he shall be removed.

Ibid, sec. 70. No deputy to be surety.

52. No deputy or assistant of such clerk shall become a surety on his official bond.

Ibid, s. 2. 1864, c. 285, Clerk of Superior Court to keep index of judgments and decrees.

53. The Clerk of the Superior Court of Baltimore city is hereby authorized and required to prepare an index of all judgments and decrees which have been rendered in the Superior Court aforesaid since its organization, the expense of which index, to be paid by him out of the receipts of his office as other office expenses are now paid, and he is further authorized and required on each day after the adjournment of the court, to enter in a book to be provided for that purpose, an index of each judgment and decree rendered in the said court, and to charge and receive ten cents for each judgment indexed as aforesaid, said fee to be taxed in the bill of costs of each case in which judgment is entered, to be collected as other fees are now collected.[1]

P. G. L., art. 18, sec. 71. Bond of clerk of Court of Common Pleas. 1856, c. 286.

54. The Clerk of the Court of Common Pleas shall give bond to the State of Maryland in the sum of fifty thousand dollars, conditioned for the faithful performance of the duties now required, or which may hereafter be required of him by law, with sufficient securities—the sufficiency of which securities shall be certified by the judge of said court, and approved by the comptroller as herein directed.

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[1] 1864, c. 74, directs the Clerk of the Court of Common Pleas to keep a general judgment index.

55. The provisions contained in the sections above, from section forty-seven to section fifty-one, both inclusive, relating to the bonds to be given by the Clerk of the Superior Court of Baltimore city, and the penalties and forfeitures for not giving the same, shall be applicable to the bonds to be given by the Clerk of the Court of Common Pleas, in the same manner as if they were herein repeated.[1] Ibid, sec. 72. Sections applicable to clerk of Court of Common Pleas.

56. The Clerk of the Criminal Court of Baltimore shall give bond to the State of Maryland in the penalty of fourteen thousand dollars, with sufficient securities to be approved by the judge of said court, and conditioned for the faithful performance of all the duties now required, or which may hereafter be required of him by law, and to be recorded in the office of said clerk. Ibid, sec. 74. Bond of clerk of Criminal Court.

57. The said clerk shall renew said bond at the same time, and under the same penalty, as are prescribed for the clerks of the Circuit Courts. Ibid, sec. 75. Renewal of bond.

58. There shall be a Clerk of the Circuit Court for Baltimore city, who shall in his election, tenure of office, liabilities, powers, duties and compensation, in all respects stand on the same footing with the Clerk of the Superior Court of Baltimore city; provided, that his powers, duties and compensation shall be limited to cases in which the Circuit Court has jurisdiction; and he shall enter into bond to the State in the penalty of twenty thousand dollars, conditioned for the faithful discharge of his duties, with security to be approved by the judge of said court. Ibid, sec. 76. Clerk of Circuit Court. Proviso. Bond.

59. Whenever the fees or other compensation of any of the clerks of the courts of Baltimore city shall, after the payment of all necessary expenses, fail to pay such officer the salary provided for by the Constitution, and said clerks, or any of them, shall, under section first, article fifteen, of the Constitution, have paid to the State any sum or sums of money as 1868, c. 54. Salaries of clerks.

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[1] 1867, c. 401, s. 5, provides that the Clerk of Baltimore City Court shall give bond in the penalty of twenty thousand dollars. Const. 1867, Art. 4, sec. 39.

excess, after retaining his salary, such excess, is hereby appropriated to the payment of the salary or salaries so in arrear until each of said clerks shall have received the full amount thereof; and it shall be the duty of the comptroller of the State to draw a warrant upon the State treasurer for the payment of said arrears out of the said excess, not to exceed the amount so in arrear, and not to exceed the whole amount of said excess paid into the treasury of the State.[1]

Duty of comptroller.

COURT OFFICES.

P. L. L., art. 4, sec. 134. Pay.

60. The Clerks of the Circuit Court, the Criminal Court, the Court of Common Pleas, the City Court and the Superior Court of Baltimore city, shall severally, at the end of every month, certify to the mayor and register of the city the amonnt due the several bailiffs and criers of their respective courts, and the mayor and register shall pay them accordingly.

1864, c. 113. Their salaries.

61. The register of the city of Baltimore shall pay to the crier of the Superior Court of Baltimore city, and the crier of the Court of Common Pleas for Baltimore city, the sum of fifteen hundred dollars per annum, in monthly instalments of one hundred and twenty-five dollars at the end of each and every month, as, and for their respective salaries, on the certificate of the clerks of said courts, that said criers have performed their several duties as criers of said courts for the time so certified by said clerks.

STENOGRAPHERS.

1837, c. 573, s. 1. Fund for payment of stenographers.

62. In every action in which issue of fact is now, or shall hereafter be joined in the Superior Court of Baltimore city, or in the Court of Common Pleas, except in cases of appeal from a judgment of a justice of the peace, the plaintiff or plaintiffs in such action shall, as a condition precedent to such action being brought to trial, pay to the clerk the sum

[1] 1868, c. 54, was enacted to carry into effect section 37, Art. 4 of Const., p. 123, *ante*. See Const., Art. 3, sec. 45, and Art. 15, sec. 1.

of three dollars, and in every such action brought in the Court of Common Pleas on appeal from a judgment of a justice of the peace, the party appellant shall, as a condition precedent to such action being brought to trial, pay to the clerk the sum of one dollar, and the amounts so received by the clerks of said courts, respectively, shall be accounted for under oath and paid over monthly by the said clerks to the comptroller of the city of Baltimore, and by him deposited in the city treasury, to be used as a fund for the payment of the stenographers employed in said courts, as provided for in the second section of this act. If the fund thus created be inadequate to pay such salaries, the additional amount necessary for such payment shall be taken and paid from the fund appropriated by the mayor and city council of Baltimore for certain expenses, to which fund any surplus of the sums so paid over to the comptroller, as hereinbefore provided, shall be credited.

Ibid, s. 2. Stenographer for Court of Common Pleas and Superior Court. Their salaries.

63. The judge of each of the courts hereinbefore named, is hereby authorized and directed to appoint a stenographer for such court, who shall be a sworn officer of the court, and shall be paid a salary of twenty-five hundred dollars per annum, in like manner as the salaries of other officers of the court are now paid, as prescribed in section one hundred and thirty-four of this article. The stenographer so appointed shall be skilled in the practice of his art, and shall hold his position so long as he efficiently discharges the duties of his office. It shall be his duty, under the direction of the judge of the court, to take full stenographic notes of all oral testimony and judicial opinions orally delivered in every trial at the regular terms thereof; and in case the judge shall require a transcript of such stenographic notes or of any portion thereof, he shall order the expense of such transcription to be paid equally by the parties to the action at the rate of ten cents for every one hundred words so transcribed, and shall enforce payment thereof, and the amount so paid, together with the sum paid as a condition precedent to the cause being brought to trial, shall be deemed a necessary disburse-

Duties.

ment of the trial and allowed as such to the prevailing party in the action, and shall be so taxed in the bill of costs of the action. It shall further be the duty of the stenographer to furnish to any party to such trials, upon request, a copy of the notes of testimony and judicial opinions taken by him on such trials, or of such part thereof as may be required, on payment, on behalf of such party, of the expense of such copy at the rate hereinbefore prescribed. It shall further be his duty, under the superintendence and direction of the judge of the court, to prepare for publication, from time to time, a volume of reports of such judicial opinions of the court as the judge thereof may designate, and particularly of such as may concern questions of interest to courts in other portions of the State. He shall receive no additional compensation for the preparation of such reports, but shall be entitled to the copy rights thereof, provided they shall be published at his expense.

Ibid, s. 8. Stenographer for Orphans' Court.

64. The judges of the Orphans' Court of the city of Baltimore are hereby authorized and directed to appoint a stenographer for that court, who shall be a sworn officer of the court, but shall be required to attend the sessions of such court only when specially summoned by the presiding judge thereof. The stenographer so appointed shall be skilled in the practice of his art, and shall hold his position so long as he efficiently discharges the duties of his office. In any proceeding in said court in which either party shall give notice that in the event of a decision of said court adverse to the claim of such party, an appeal will be taken to the Court of Appeals, the presiding judge of the court shall require the attendance of the stenographer, whose duty it shall be in such proceedings, to take full stenographic notes of all oral proofs and judicial opinions orally delivered, and in case appeal shall be taken from the decision of the court, such notes shall be transcribed, and after being signed by the witnesses, deponents, or affiants shall become a portion of the record of the case, to be transmitted by the judges of the court to the Court of Appeals. By consent of the parties

His duties.

to the proceeding in which such proofs shall be taken, and of the judges of said court, the signing of such record of proof by the witness, deponent, or affiant may be waived, in which case such record, after being authenticated by the certificate of said stenographer, or of the presiding judge of the court, shall be deemed to be the record of any proofs or proceedings so taken. The stenographer shall receive as compensation for his services, the sum of eight dollars for each day of actual attendance at the court, by direction of the presiding judge thereof, which sum the presiding judge shall cause to be paid equally by the respective parties to the proceeding in which the notes shall be taken, and shall enforce payment thereof, and if the notes so taken shall be transcribed, as hereinbefore provided, the expense of such transcription at the rate of ten cents for each one hundred words so transcribed, shall be taxed in the bill of costs of the proceeding to the party appellant, and shall thereafter be awarded as costs by the Court of Appeals, in accordance with the provisions of section forty-two of article twenty-nine of the Code of Public General Laws.

His compensation.

65. The stenographer in each of the courts hereinbefore named may appoint an assistant stenographer, who shall also be a sworn officer of the court, to assist him in the discharge of his duties; provided, that no additional compensation shall be paid, or expense incurred, by reason of such appointment.

Ibid, s. 4.
Assistant Stenographers.
Proviso.

SHERIFF.

66. The sheriff of Baltimore city shall be allowed two dollars a day for every day he shall attend, either in person or by deputy, in the Superior Court of Baltimore city, in the Court of Common Pleas, and in the Baltimore City Court, and in the Criminal Court of Baltimore, to be paid to him as the other expenses in said courts are now paid.

1864, c. 236.
Pay, when attending court.

67. Any officer may send out his fees on execution at any time during the year.

1861, c. 55.
Execution for fees.

1861, c. 53, s. 2. What officers' fees sheriff to collect.

68. The sheriff shall collect the fees due to the following officers, which may be placed in his hands for collection, namely: attorneys, clerks of all the courts, commissioner of the land office, coroners, criers, registers of wills, surveyors and sheriffs.

Ibid, s, 3. When sheriff may distrain, &c., for fees. Proviso.

69. The sheriff may distrain or execute the goods and chattels of any person against whom any fees are placed in his hands for collection; provided, he has sixty days previously delivered to such person, or left at his place of abode an account of such fees.

WITNESSES.

P. L. L., Art. 4, sec. 946. Pay.

70. Witnesses attending any of the courts of Baltimore city shall be entitled to fifty cents a day.

JUSTICES OF THE PEACE AND CONSTABLES.

P. L. L., Art, 4, sec. 619. 1868, c. 177. Number of justices of peace appointed by Governor.

71. The Governor of the State, by and with the advice and consent of the Senate, shall, at the time designated by law, appoint for the several wards of the city of Baltimore, the following number of justices of the peace, that is to say: for ward number one, two justices of the peace; for ward number two, two justices of the peace; for ward number three, one justice of the peace; for ward number four, one justice of the peace; for ward number five, one justice of the peace; for ward number six, one justice of the peace; for ward number seven, two justices of the peace; for ward number eight, one justice of the peace; for ward number nine, one justice of the peace; for ward number ten, two justices of the peace; for ward number eleven, one justice of the peace; for ward number twelve, one justice of the peace; for ward number thirteen, one justice of the peace; for ward number fourteen, one justice of the peace; for ward number fifteen, two justices of the peace; for ward number sixteen, one justice of the peace; for ward number seventeen, one justice of the peace; for ward number eighteen, two justices of the peace; for ward number nineteen, one justice of the peace; for ward number twenty, one justice of the peace. And the mayor and city

council of Baltimore, in addition to the constables now acting in the city of Baltimore, are hereby authorized and empowered to appoint the following number of constables, that is to say: for ward number one, two constables; for ward number two, two constables; for ward number three, one constable; for ward number four, two constables; for ward number five, two constables; for ward number six, two constables; for ward number seven, two constables; for ward number eight, two constables; for ward number nine, two constables; for ward number ten, three constables; for ward number eleven, two constables; for ward number twelve, one constable; for ward number thirteen, two constables; for ward number fourteen, two constables; for ward number fifteen, two constables; for ward number sixteen, two constables; for ward number seventeen, two constables; for ward number eighteen, two constables; for ward number nineteen, two constables; for ward number twenty, two constables; who shall hold their offices for two years from the date of their appointments, and until their successors in office are duly appointed and qualified. And the said mayor and city council of Baltimore are hereby authorized to make the appointment directed by this act, on the fourth Monday of March, eighteen hundred and sixty-eight, and on the said fourth Monday of March of every second year thereafter; provided, that nothing in this act shall be so construed as to authorize the said mayor and city council of Baltimore, on and after the fourth Monday of March, eighteen hundred and seventy, to appoint more than two constables for each of said wards of said city, except the first and tenth wards of said city, which two last named wards shall be entitled to four constables each.[1]

Mayor and city council authorized to appoint constables.

When appointment to be made by mayor and city council.

Proviso.

72. Every justice of the peace for said city shall keep his office or place for the transaction of business within the ward in which he may have been elected.

P. L. L., Art. 4, sec. 620.

Justice to keep place of business in ward.

73. The justices of the peace for said city shall keep their places of official business open each and every day (Sunday

Ibid, sec. 621.

Office hours.

[1] See *Smith et al.* v. *Thursby*, 29 Md. and 1868, c. 468, Sup. '68, p. 290.

excepted) from the hour of eight o'clock in the forenoon until one o'clock in the afternoon, and from three o'clock in the afternoon until six o'clock in the afternoon; but nothing herein contained shall be construed to exempt them from the duty of attending at all times to the criminal business of the State.

Ibid, sec. 622. Not to issue writ but on application of plaintiff or attorney.

74. No justice of the peace, in any case of debt or damages whatever, shall issue a summons or execution, except on application for the same by the plaintiff or his attorney in person, or by writing accompanied with the cause or causes of action in said case; and if any justice of the peace for said city shall issue a summons or execution contrary hereto, or if any constable shall serve the same knowingly, such justice or constable shall be liable to indictment in the Criminal Court of Baltimore, and shall on conviction be disqualified from holding his office.

Penalty.

Ibid, sec. 623. 1868, c, 375. Before whom summons may be made returnable, and case tried.

75. 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.[1]

P. L. L., Art. 4, sec. 624. Pay when called from office.

76. The justices of said city, when called out of their offices on business not judicial and not relating to criminal procedure, may receive such compensation for their services, in addition to their fees of office, as the party requiring their services may allow them.

Ibid, sec. 625. To file list of fines imposed with Clerk of Court of Common Pleas.

77. They shall file with the clerk of the Court of Common Pleas, within thirty days after the first Monday of September and on the first day of April in each year, under their respective oaths, a list and account of all fines, forfeitures and penalties imposed by them severally under the laws of this State

[1] This act applies only to civil suits and not to a penal prosecution for violating a city ordinance, punishable by fine. *Mace's case*, 5 Md. 387, decides that the word "debtor" applies to one owing an obligation strictly civil in its nature, and does not describe the perpetrator of an offence "punishable by fines." *Smith* v. *Mayor, &c.*, Supreme Bench Baltimore city.

within the twelve months then next preceding, distinctly showing what amount of said fines have been paid in each case; and shall at the time of filing such lists and accounts severally pay over to the said clerk all such fines, penalties and forfeitures, or parts thereof, to which the State of Maryland is entitled; and the said clerk shall account for the same as for other public money received by him.

Ibid, sec. 626. If no fines, to file affidavit of fact.

78. If any justice shall not have imposed or received any such fines, penalties or forfeitures within such twelve months, he shall at the times directed by the preceding section file with said clerk an affidavit to that effect.

Ibid, sec. 627. Penalty for neglecting return.

79. If any justice of the peace for said city shall neglect or refuse to comply with the directions and provisions of the last two preceding sections, or shall file with said clerk any false or incomplete list and account or affidavit of and concerning such fines, forfeitures and penalties, he shall be liable to indictment, and on conviction shall be subject to a fine not exceeding five hundred dollars.

Ibid, sec. 628. Duty as to informations for violating ordinances.

80. They shall, under the penalty of one hundred dollars, make report quarterly, on the first day of January, April, July and October in each year, to the register of the city, of the number of informations laid before them for the violations of the city ordinances, the names of informers, persons informed against, the number of judgments rendered in favor of the corporation, for what amounts, and whether such judgments have been appealed from, superseded or satisfied.[1]

P. G. L., Art. 18, sec. 25. Supersedeas.

81. It shall not be lawful for the justices of the peace of the city of Baltimore to take *supersedeas* of any judgment recovered in the Court of Common Pleas, the Superior Court of Baltimore city, or Baltimore City Court, but such *supersedeas* shall be taken by the clerks of said courts respectively.[2]

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[1] See Fines and Forfeitures, *post*.

[2] *Fees and Costs.* By 1865, c. 79, (Sup. '61-67, p. 118,) continued in force till April 1, 1869; by 1867, c. 407, the justices of the peace of the State are 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, twenty-five

ORDINANCES.

SUPERINTENDENT OF COURT HOUSE AND RECORD OFFICE.

No. 31, s. 1, R. O. Superintendent and watchman appointed.

1. There shall be annually appointed as other city officers are appointed, a superintendent and one able-bodied watchman, to take charge of the court house and record office, and surrounding grounds.

Ibid, s. 2. Duty of superintendent.

2. The said superintendent shall be a man of temperate habits, strict integrity, and general good character, and also capable of keeping accounts, and he shall have entire charge of said property, securing the same from depredation, causing it to be kept in good repair and cleanly condition, and furnishing the necessary fuel and attending to the heating and lighting of the several departments included within said

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cents; for each summons for witnesses, including all the witnesses applied for, at the same time, twenty-five cents; for venire to summon freeholders, thirty-five cents; for fieri facias, thirty-five cents; for venditioni exponas, thirty-five cents; for scire facias, forty-five cents; for every supersedeas, twenty cents; for every oath or affidavit, ten cents; for probate of account, ten cents; for every judgment rendered where there is no trial, twenty-five cents; for every judgment rendered on trial, sixty cents; for every warrant of attachment against a resident debtor, forty-five cents; for every attachment against a non-resident or absconding debtor, one dollar; for attachment of contempt, twenty-five cents; for venire to summon a jury in a case of forcible entry and detainer, and summons to tenant, one dollar; for taking inquisition and return thereof, four dollars; for warrant of restitution, one dollar; for taking every acknowledgment of every deed or other instrument of writing from each person making an acknowledgment, thirty cents; for a certificate of estrays, forty cents; for issuing writ of attachment by way of execution, forty-five cents; for taking replevin or other bonds, twenty-five cents; for entering every continuance, ten cents; for every transcript from the docket, fifteen cents; for every search, ten cents; for binding apprentices, each justice, twenty-five cents.

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, twenty-five cents; for search warrant, twenty-five cents; for taking recognizances of witnesses, each, twenty-five cents; for taking recognizances in each case reported to court, twenty-five cents; for every commitment, twenty-five cents; for every releasement, twenty-five cents; for holding an inquest upon a deceased person, five dollars; for issuing an attachment for a witness refusing to attend on the summons of a commissioner, fifty cents; for taking depositions in cases of contested elections, per day, three dollars.

And by 1865, c. 67, (Sup. '61–67, p. 116,) continued in force till April, 1870, by 1867, c. 375, and 1868, c. 317, the constables in this State are entitled to demand and receive the following fees, to wit: For serving State warrant and return, seventy-five cents; for serving search warrant, seventy-five cents; for

buildings and grounds, except the room occupied by the Orphans' Court for Baltimore city, which room shall be under the exclusive supervision and control of the register of wills for Baltimore city, as hereinafter provided. And the said superintendent shall annually, during the first week in January, make to the city register an estimate in detail of the expenses to be incurred for the current year for the said keeping, including therein the cost of fuel, of repairs, of necessary fixtures, of furniture, of laborers, and of all other proper incidental requisitions, taking into consideration only those expenses rightly chargeable to the city treasury as distinct from those to be provided for by the departments themselves; and in no case shall said superintendent incur other

Register of wills to have control of Orphans' Court room.

Superintendent to report annually.

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serving summons in civil suit and return, forty-five cents; for serving summons for witness and return, each witness, twenty cents: for serving scire facias and return, forty cents; for levying fieri facias and return, twenty cents; for delivering a person committed over to the jailor, seventy-five cents, and five cents per mile for every mile he may have to travel, and the actual necessary traveling expenses of each prisoner; for summoning jury on inquest, each juror, fifteen cents; for levying attachments for contempt, seventy-five cents; for serving writ of replevin and return, forty-five cents; for serving warrant for distraint, twenty-five cents; for summoning and swearing appraisers on distress for rent, and in replevin, each appraiser, twenty-five cents; for serving an attachment in the hands of each garnishee, fifty cents; for killing dog found killing sheep, to be paid by the owner of the dog, four dollars; for poundage fees on any distraint, replevin, attachment or fieri facias, eight per cent. on the first twenty-five dollars, and three per cent. on the residue; but if the defendant shall supersede the judgment on which the execution or attachment shall have issued, within four days after the same shall have been levied or served, the constable shall only be entitled to receive one-half of said poundage fees; for arresting any person charged with a misdemeanor for entering any enclosure and destroying property therein, in the limits of the city of Baltimore, or within four miles thereof, one dollar.

The county commissioners in the several counties, and the mayor and city council of Baltimore, shall levy on the assessable property of their respective counties or the said city, the amount of fees that the constables of the several counties or the said city are entitled to receive for executing criminal business; provided, that nothing contained in this section shall exempt any criminal from paying the cost of his arrest, if he shall be of sufficient ability to do so.

1867, c. 164, (Sup. '61-67, p. 17,) provides that before any of the circuit courts of this State, or the Baltimore City Court, shall proceed to hear or try cases brought to their respective courts, by appeal from the judgments of justices of the peace, they shall first be satisfied that all costs incurred on the judgment and proceedings before the justice aforesaid, shall have been paid by the appellant.

Expenses not to exceed appropriation.

expenses than those so estimated for and appropriated by the mayor and city council, and the said register in no case shall exceed such appropriations, always excepting that upon an emergency occurring not to be foreseen in said annual estimate, the mayor during the intermission of the session of the council, may order the necessary expenditure, and the register is hereby authorized to pay the same out of any money not otherwise appropriated; provided, the same shall not exceed the sum of two hundred dollars, and the vouchers for all such expenditures be filed with the register.

Proviso.

No. 31, s. 3, R. O.

Duty of watchman.

3. The watchman appointed under this ordinance shall be a man of like good character for integrity and sobriety, and shall be required to take charge of said buildings, grounds and apartments during the night, under such arrangements and instructions as to the time of commencing and continuing the watch hours, as well as the performance of all other duties connected therewith, as shall be made by the mayor; it being hereby also provided, that at no time shall the said buildings, grounds and apartments be from under the charge and personal attendance of either said superintendent or watchman, and likewise that said watchman shall be subject to the supervision of the captain of the police for the district, who shall report any delinquency of duty to the mayor.

Proviso.

Ibid, s. 4.

Superintendent and watchman to give bond.

4. The said superintendent and watchman shall each enter into bonds, with sufficient security to be approved by the mayor, for the faithful performance of their duty; and for neglect of the same, the said superintendent or watchman may be removed by the mayor.

Ibid, s. 5. No. 56, Aug. 9, '67; No. 64, May 13, '64.

Salary of superintendent and watchman.

5. The salary of said superintendent shall be nine hundred dollars per annum, payable monthly, and the salary of the said watchman shall be seven hundred dollars per annum, payable monthly; provided always, that in case of absence from duty, from any cause, of the superintendent or watchman, a substitute shall be appointed for the time—if the watchman be absent a substitute shall be appointed by the superintendent; if the superintendent be absent a substitute shall be appointed by the mayor or register; the pay of such substitutes to be the same

Proviso.

as the officers they represent; said pay to be deducted from the pay of the watchman or superintendent, as the case may be.

No. 31, s. 6, R. O.
No expense to be incurred unless provided for by this ordinance.

6. It is hereby distinctly declared and provided, that no debt or contract for debt for expenses incurred for the keeping, repairing, furnishing or in any manner providing for the said buildings, apartments, grounds or appurtenances thereto belonging otherwise than is enacted and provided for by this ordinance, shall be acknowledged as binding on the mayor and city council or be paid by the register, except by special enactment.

No. 31, s. 2, R. O.; No. 45, July 2, '60; Res. No. 177, May 30, '61; No. 58, May 2, '64.
Janitor of Orphans' court.
How appointed
His duties.
Salary.

7. The register of wills for Baltimore city is hereby authorized and empowered to employ a suitable person to attend to the heating and lighting of the rooms occupied by the Orphans' Court for said city, and to the keeping of the same in good repair and cleanly condition, at a salary of two hundred and fifty dollars per annum, payable monthly by the city register, out of the amount estimated by the superintendent for the current year, as provided in section two of this ordinance, upon the order from said register of wills for said compensation.

No. 23, April 16, '68.
Janitor of old Masonic Hall Court house.
Salary.

8. There shall be annually appointed, as other city officers are, a janitor, whose duty it shall be to keep in order, clean and arrange the various offices in the building known as the Old Masonic Hall on St. Paul street, now used for the purposes of the Supreme Bench, the Baltimore City Court, and the Circuit Court of Baltimore city, the salary of said janitor shall be at the rate of seven hundred dollars per annum, payable monthly.

Res. March 19, '69.
Watchman of same.
Salary.

9. There shall be annually appointed by the mayor, as other city officers are appointed, a person to be styled the watchman of the court house, at the corner of St. Paul street and Court-house lane, whose duty it shall be to take charge of and watch said court-house between the hours of 6 o'clock P. M. and 7 o'clock A. M., and who shall remain in or about said court-house continuously between said hours. He shall receive as compensation for his services the sum of seven hundred dollars per annum, payable monthly.

ARTICLE XIV.

CRUELTY TO ANIMALS.

STATUTE.
How punished.

ORDINANCE.
Cock fighting prohibited: penalty: fines.

STATUTE.

P. L. L., Art. 4, sec. 190. Cruelty to animals, how punished.

If any person shall wilfully cause or procure any bull-baiting, cock-fighting, or the fighting of dogs, in the city of Baltimore, or shall wilfully and wickedly kill, cripple, or commit acts of cruelty upon animals in said city, or any of the streets, lanes or alleys thereof, every such person and those aiding therein shall be liable to prosecution and punishment in the Criminal Court of Baltimore, as for other misdemeanors.

ORDINANCE.

No. 36, ss. 14, 17, R. O. Cock fighting.

No match or main of cocks shall be fought within the city of Baltimore, and if any match or main of cocks shall be fought within the said city, every person who shall trim, heel, pit or hand any cock so fought, and every owner of any cock consenting to his fighting, and every person who shall bet on such match or main, shall severally forfeit and pay the sum of twenty dollars for every such offence. And all such fines shall be one-half for the informer, and the other half for the use of the city.

Penalty.

ARTICLE XV.

DEAF, DUMB AND BLIND.

STATUTES.

1. What deaf and dumb to be educated by public.
2. Duty of governor of State: appropriations: provisos.
3. Annual appropriation for indigent blind.
4. Recommendation.
5. Yearly amount to each: term of instruction.
6. Governor to report to legislature.

ORDINANCES.

1. Deaf mutes: when mayor to authorize their instruction: appropriation.
2. Duty of mayor.
3. Annual appropriation.

STATUTES.

P. G. L., art. 33, sec. 1. What deaf and dumb to be educated by public.

1. It shall be and is hereby made the duty of the mayor and city council of Baltimore, on the application of any parent, guardian or next friend (provided such parent, guardian or next friend has been a bona fide citizen of this State for at least two years previous to such application) of any deaf and dumb person of teachable age and capacity, not exceeding the age of twenty-one years, to inquire into the age and capacity of said deaf and dumb person, and also into the ability of such person, his or her parent or guardian, to pay the expense of his or her education; and if satisfied by evidence produced that such person is of teachable age, and is endowed with capacity to receive instruction, and that neither such person, his or her parents or guardian, is possessed of means to pay for such instruction, then it shall be the further duty of the mayor and city council of Baltimore aforesaid, to certify the same to the Governor of this State.

1865, c. 68. Duty of governor of State.

2. On receiving the certificate of the mayor and city council of Baltimore, as aforesaid, it shall be the duty of the governor to authorize the instruction of said deaf and dumb person in the Columbia Institution for the deaf and dumb, for a term not exceeding seven years; and it shall be the further duty of the governor, on the certificate of the president of said institution, that such deaf and dumb person has been taught at said institution, to order the comptroller of the treasury to draw his warrant on the treasurer of this State for two hundred dollars per annum, for each deaf and dumb person taught in pursuance of his authority at said institution, payable to the president thereof, in quarterly payments, on the first days of January, April, July and October, in each year; and the governor shall also order the comptroller of the treasury to draw on the treasurer his warrant, payable to the proper party for the expenses necessarily incurred in transporting and returning said deaf and dumb person; provided, that the whole amount drawn from the treasury, for the purposes aforesaid, shall not exceed seven thousand five hundred dollars in any one year; provided further, that the governor shall dispose of applications in behalf of deaf and dumb persons, under the provisions of this article, in the order in which they may be made; and if the applications be more than sufficient to absorb the foregoing appropriation, he shall suspend the action upon the excess until vacancies occur, or further provision be made by the General Assembly.

Appropriations

Provisos.

1868, c. 205. Annual appropriation for indigent blind.

3. A sum not exceeding fifteen thousand dollars shall be annually appropriated, to be applied, under the direction of the governor, in placing for instruction in the Maryland Institution for the Instruction of the Blind, such indigent blind persons of the age of nine years and upwards, inhabitants of this State and the county or city from which they are recommended, as may be duly recommended to the governor by the county commissioners of each county, or the judges of the Orphans' Court of Baltimore city.

P. G. L., art. 33, sec. 4. Recommendation.

4. The recommendation shall state that such blind persons are in such indigent circumstances as to be unable, from their

own resources, or those of their parents, to obtain instruction, and are of good natural capacity.

5. The amount per annum paid for any one individual, shall not exceed the sum of three hundred dollars, nor the term of instruction eight years. 1865, c. 75. Yearly amount to each; term of instruction.

6. The governor shall report to the General Assembly at each regular session thereof, the amount of money expended by him in pursuance of the provisions of this article, and the names, ages, and places of residence of the different applicants.[1] P. G. L., art. 33, sec. 6. Governor to report to legislature.

ORDINANCES.

1. On application of any parent, guardian or next friend of any deaf mute of teachable age and good mental capacity, provided such parent, guardian or next friend has been a bona fide resident of the city of Baltimore for at least two years continuously previous to such application, accompanied by satisfactory proofs of the deafness of the child, and of the inability of the parents or guardians to provide for its education, as also that it has been for at least two years a resident of the city, and that no vacancy exists under the law of the State making appropriation for the education of deaf mutes, it shall be the duty of the mayor to authorize the admission of said child, for a term not exceeding seven years, into the Columbia Institution for the instruction of the deaf and dumb, and to pay for its transportation, maintenance, tuition and clothing, a sum not exceeding two hundred dollars per annum, provided No. 35, Apl. 13, '64; No. 8, Feb. 28, '65. Deaf mute. When mayor to authorize their instruction. Appropriation. Proviso.

[1] For the purpose of assisting the Maryland Institution for the Instruction of the Blind in the erection of a building in Baltimore county just outside the city limits, the act of 1865, c. 75, appropriated for the year 1865 the sum of $30,000, and for the year 1866, $20,000. And the act of 1867, c. 422, appropriated for the year 1867, the sum of $30,000 for the same purpose. The mayor and city council by Res. No. 162, Aug. 27, '64, appropriated $10,000 for the same, and by Res No. 378, Aug. 9, '67, $15,000 for finishing said institution and laying off the grounds.

1868, c. 409, and 1867, c. 247, provide for establishing and incorporating an Asylum for the deaf and dumb of the State of Maryland in Frederick county.

that the whole amount drawn from the treasury for the purpose aforesaid does not exceed thirty-six hundred dollars in any one year.

No. 25, s. 2, Apl. 13, '64. Duty of mayor.

2. The mayor shall dispose of the applications for the benefits of this ordinance in the order in which they have been or may be made, and if the applications be more than sufficient to absorb the sum of thirty-six hundred dollars, he shall suspend action upon the excess until a vacancy occurs or further provision be made.

Ibid, s. 3. Annual appropriation.

3. The sum of thirty-six hundred dollars is hereby appropriated for the purpose of carrying out the provision of this ordinance, the same to be provided for in the levy of each and every year.

ARTICLE XVI.

ELECTIONS.

STATUTES.

1. Wards to be divided into election precincts.
2. Precincts to be as nearly equal as practicable.
3. To be numbered: numbers to be recorded and published.
4. Division may be altered.
5. Upon change of wards, precincts to be changed.
6. Votes to be received only in precinct where voter resides.
7. Judges of election, how appointed: presiding judge, how designated: qualification of judges and term of office: penalty for refusing to serve.
8. Vacancies in office of judge, how filled.
9. Judges to be conservators of the peace: to preserve order and suppress riot.
10. To select places of voting: what places shall not be selected: barriers to be erected at polls.
11. Power of judges to commit persons: power over sheriff and posse.
12. Penalty for refusing to obey summons of judge.
13. For refusing use of jail: proviso: reservation of powers to board of police.
14. Clerks of election, how appointed: pay of judges and clerks and by whom paid.
15. Oaths of judges and clerks.

16. Notice of places of election to be given.
17. Hours of voting.
18. Ballots to be taken before examination of voters: box for rejected ballots to be kept: rejected ballots to be sealed and put in: box to be sealed and kept twelve months: when to be destroyed.
19. Drinking houses to be closed: penalty for selling liquor.
20. Judges to go before grand jury: penalty for neglecting to do so:
21. Grand jury not to be discharged without presentment of judges' appearance.
22. Grand jury to present judges failing to appear: on presentment warrant to issue for: presentment to go to next grand jury: charge to jury: penalty.
23. Penalty on judge of election failing to preserve peace.
24. Sheriff to give notice of elections: failure of notice: places of election: penalty: judges refusing legal or allowing illegal votes: imprisonment: penalty.
25. Penalty for preventing legal or procuring illegal voting: for voting illegally.
26. Penalty for conspiring to prevent legal or procure illegal voting; for assaulting or intimidating voters: for destroying ballots or ballot boxes: for violence to judges or clerks: for resisting officers: for destroying naturalization papers.
27. Power to seize arms.
28. Powers of board of police saved.
29. How above provisions to apply to elections in Baltimore: federal, State and municipal elections: board of police.
30. Want of notice not to invalidate election: proviso.

ORDINANCES.

1. Returns by judges.
2. Penalty for illegal voting.
3. Vacancy in city council.
4. Fines and forfeitures.

STATUTES.

1. The Board of Police of the city of Baltimore, as soon as practicable, and before the holding of any election whatsoever in said city, shall lay out and divide each and every of the wards of the said city into election precincts, in the following manner, that is to say: the first ward into three precincts; the second ward into three precincts; the third ward into four precincts; the fourth ward into three precincts; the fifth ward into two precincts; the sixth ward into three precincts; the seventh ward into four precincts; the eighth ward into four precincts; the ninth ward into two precincts; the tenth ward into two precincts; the eleventh ward into three precincts; the twelfth ward into three precincts; the thirteenth ward into two precincts; the fourteenth ward into three precincts; the fifteenth ward into four precincts; the sixteenth ward into three precincts; the seventeenth ward into four

P. L. L., art. 4, secc. 199. Wards to be divided into election precincts.

precincts; the eighteenth ward into seven precincts; the nineteenth ward into four precincts, and the twentieth ward into four precincts.

Ibid, sec. 200. Precincts to be as nearly equal as practicable.

2. The said precincts in each ward shall be as nearly equal to each other as may be practicable, in voting population, and shall be set apart with as much regard as may be to the proximity and concentration of their several parts and to the convenience of the voters therein.

Ibid, sec. 201. To be numbered; numbers to be recorded and published.

3. The board of police shall cause the said precincts in each and every ward to be numbered one, two, &c., and the description of each thereof to be recorded in a book to be kept by them for the purpose, and as soon as the said division shall have been so made and recorded, the said board shall cause the said description of the several precincts, with their respective numbers, to be published daily three times in all the daily papers of the city of Baltimore, which shall be willing, for a proper compensation, to insert the same.

Ibid, sec. 202. Division may be altered.

4. It shall be the duty of the said board of police, from time to time, after the said first division shall have been made, to alter and correct said divisions whenever they may deem it expedient, so however as not to increase or diminish the number of precincts in any of the several wards as aforesaid.

Ibid, sec. 203. Upon change of wards, precincts to be changed.

5. In case of any change in the number or locality of the wards of said city, the board of police shall, as soon as possible thereafter, distribute the same generally into equal precincts, as nearly as may be, to contain four hundred and fifty voters, more or less, as nearly as in their discretion they may deem advisable, and shall from time to time thereafter amend such distribution, if need be, so as to produce such result; and they shall cause the said alterations or new divisions and amendments thereof to be likewise recorded and advertised as hereinbefore provided.

Ibid, sec. 204. Votes to be received only in precinct where voter resides.

6. After the making of such several divisions or distributions into precincts, the votes of the citizens entitled by law to vote in any ward of the city of Baltimore, shall be given and received only at the place of voting in the precinct in which

they shall reside at the time of such voting, or in which they may have last resided previously to their removal from the said ward, if they have so removed, and have not acquired a legal residence elsewhere.

Ibid, sec. 203. Judges of election, how appointed.

7. It shall be the duty of the said board of police, immediately after they shall have established election precincts as first herein provided, to nominate and appoint three discreet persons in each of said precincts to act as judges of election[1] therein, designating in said appointment one of said persons as presiding judge; the said judges to be legal voters of the precinct for which they shall respectively be appointed, and to hold office for the term of one year from and after the date of their appointment, and for so much longer time as they may be willing and the said board may see fit; subject, however, to removal at any time by the said board; but each and every person so appointed shall, unless excused or removed by the said board, or disqualified by ill health, or otherwise, according to law, be bound to serve as such judge for the term of one year as aforesaid when appointed, once in every five years if required, and in case of refusal so to do, shall be liable to a penalty of five hundred dollars, recoverable by the said board by civil action, in the name of the State; and a failure to attend at any election during said term, unless prevented by sickness or other sufficient cause, shall be deemed a refusal within the meaning of this section.

Presiding judge, how designated.

Qualification of judges and term of office.

Penalty for refusal to serve.

Ibid, sec. 206. Vacancies in office of judge, how filled.

8. The said board shall have power and authority, and it shall be their duty to fill all vacancies which may be caused among the said judges by death, disqualification, refusal to act, or otherwise, and to appoint successors from time to time to those judges whose term of service shall be about to expire

[1] The office held by judges of election is judicial, and such officers cannot be held legally responsible for any thing more than an honest and faithful exercise of judgment, and are not liable for the consequences of mistakes honestly made. In an action against judges of election, for refusing to permit the plaintiff to vote, the declaration must allege that the act was done wilfully and fraudulently, or corruptly; for wrongs so done, these officers are liable both civilly and criminally. *Bevard* v. *Hoffman et al*, 18 Md. 479; *Anderson* v. *Baker*, 23 Md. 621.

or shall have expired, or whom they shall remove; and every judge so appointed shall hold his office for the term of one year, subject to the conditions hereinbefore provided.

Ibid, sec. 207. Judges to be conservators of the peace; to preserve order and suppress riot.

9. The said judges of election, and each of them, are made conservators of the peace while they shall be acting as such judges, and shall have full power and authority, and are hereby respectively commanded to preserve the peace at and about the places of voting of their respective precincts from the time that the polls shall have been opened therein until the returns of the votes taken at any election therein shall have been made; and they, and each of them, shall have full power, and it shall be their duty to keep the polls of their respective precincts clear, or cause them to be kept clear, so that ingress thereto and egress therefrom shall be free and unobstructed to the voters; and to prevent and suppress riots, tumult, violence, disorder and all other improper practices, tending to the intimidation or obstruction of voters, or the disturbance or interruption of elections.

Ibid, sec. 208. To select places of voting.

10. The said judges, or a majority of them in each precinct, shall have power, and are hereby directed, to select the places of voting in and for their respective precincts, and to take care that the same be as near the centre of such precincts as may be, and upon an open, public street, in a free, accessible and convenient location, and that no tavern, liquor store, grog-shop, or other place at which liquor shall usually, or at the time, be sold, shall be by them taken or used as a place of voting; and they shall take all such measures, whether by the erection of barriers, or establishing limits around the polls or otherwise, as may be necessary and proper in their judgment, to prevent crowding at or near the polls, or the interruption of voters in approaching or returning from the same; and it shall be their duty, by proper precautions in advance and by such regulations and arrangements beforehand, or on the day of election, as may be suitable, to secure the peaceful conduct of such elections as may be held during their official terms, and the protection of the voters and the ballot-boxes from violence and fraud.

What places shall not be selected.

Barriers to be erected at polls.

11. In order to enable the judges to discharge the duties imposed on them by this article, or any other law, they, and each of them, shall have full power and authority upon every day of election, and until they shall have made up the return of the votes polled, to commit to the jail of Baltimore city, upon their warrants respectively, all persons who shall, within their respective precincts, violate, or attempt to violate, any of the provisions of this article, or any section thereof, or of any other law touching elections now existing, or hereafter to be enacted, and they are authorized to call upon the sheriff of Baltimore and his deputies, and all constables, policemen or other peace-officers, to serve the said warrants; and they are further authorized and directed at the times and for the periods aforesaid, to call upon the said sheriff and his deputies and other officers last above mentioned as well as all private citizens, and if need be to summon the posse comitatus to aid them in suppressing riot, violence, disturbance and disorder, and in preserving the public peace, protecting themselves and other voters, and securing the quiet and freedom of the election and the safety of the ballots and ballot boxes.

Ibid, sec. 209. Power of judge to commit persons.

Power over sheriff and posse.

12. Any person or persons whom the said judges or any of them may so summon, or on whom they may so call to execute the said warrants, or aid them respectively, as hereinbefore provided, and who shall refuse to obey such call or summons, shall be liable respectively to the penalties following for such refusal, to be recovered by the said board of police, by civil action, in the name of the State, that is to say: the said sheriff to a penalty of five thousand dollars, any other peace officer aforesaid to a penalty of five hundred dollars, and any private citizen to a penalty of one hundred and fifty dollars; and each and every person so refusing shall be liable, moreover, to indictment, and such punishment for such refusal as is by law already or may hereafter be provided.

Ibid, sec. 210. Penalty for refusing to obey summons of judge.

13. Any officer or person having control, command, or keeping of the jail of Baltimore city, who shall refuse to receive or detain, and any officer of the corporation of said city who shall prevent or forbid the reception or detention in such

Ibid, sec. 211. Penalty for refusing use of jail.

jail of any person so committed by said judges, or any of them, according to the exigency of such commitment, shall be liable to a penalty of one thousand dollars for every such offence, recoverable by said board of police, by civil action, in the name of the State, and likewise to imprisonment for not less than sixty days, upon conviction thereof in any criminal court of competent jurisdiction; provided, however, that nothing contained in this article shall be construed to impair or destroy the authority of the said board of police under the provisions of the article constituting the same, and prescribing their powers and duties, and especially under the provisions of the article authorizing them to control and command all conservators of the peace on the occasions and in the manner therein provided.

Proviso.

Reservation of powers to board of police.

Ibid, sec. 212.

Clerks of election, how appointed.

14. The said board of police shall likewise 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 two dollars per diem each for their services as such; the said judges of election shall receive two dollars per diem each for their services; the compensation of such judges and clerks, and all expenses to be incurred by the said judges under this article, or otherwise according to law, as well as all expenses to be incurred by 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 council of Baltimore, and to be provided for by said mayor and council by taxation or otherwise.

Pay of judges and clerks, and by whom paid.

1868, c. 377.

Oath of judges.

15. Each of the said judges, as soon as may be after his appointment, and before proceeding to act as such judge of election, shall take the oath or affirmation prescribed by article thirty-five of the Public General Laws as amended by the act of the General Assembly, passed at the January session thereof, in the year eighteen hundred and sixty-seven, chapter three hundred and seventy-four, repealing and adopting a sub-

stitute for section nine of said article,[1] and every clerk of said election, as soon as may be after his appointment, and before he enters any vote on the poll-book, shall take the oath or affirmation prescribed in section ten of said article thirty-five of the Public General Laws; and the said judges and clerks respectively, shall likewise make oath or affirmation well and faithfully to discharge the duties, by this article imposed on them respectively, or which may be assigned to them respectively, during their official term by law. Oath of clerk.

16. On the morning of each day of election in said city, and on the day preceding, if practicable, the judges of each precinct shall give public notice by advertisement in all the daily papers of the said city, the proprietors whereof shall be willing for reasonable compensation to insert the same, of the places at which the polls shall be held in their respective precincts. P. L. L., art. 4, sec. 214. Notice of places of election to be given.

17. At every election to be held in the city of Baltimore, the polls shall be open for the reception of voters from eight o'clock A. M. until five o'clock P. M., and no longer. Ibid, sec. 215. Hours of voting

18. It shall be the duty of the judges of election in each of the precincts hereinbefore provided for, so soon as any person shall present himself to vote or offer to vote therein, to take from him the ballot which he shall tender, before they shall examine him or any other person touching his qualifications, and before they shall determine in regard thereto; and the said judges in each precinct, in addition to the ballot box or boxes, to be used for the reception of votes Ibid, sec. 216. Ballots to be taken before examination of voters. Box for rejected ballots to be kept.

[1] The section cited is as follows:

Every judge of election, at every election to be hereafter held in pursuance of law, before he proceeds to take or receive any vote, shall take the following oath or affirmation: I, A. B., do swear (or affirm) that I will permit all persons to vote who shall offer to vote at the election now to be held for ——— county, or ——— city, whose names shall appear on the registry or list of voters furnished to me according to law, as qualified voters under the constitution and laws of this State, and that I will not permit any person to vote at the same election whose name shall not be found upon the said registry or list of qualified voters; and I will in all things execute the office of judge of the said election, according to the best of my knowledge, without favor or partiality, so help me God.

Rejected ballots to be sealed and put in. Box to be sealed and kept twelve months; when to be destroyed.

which they shall receive as legal, shall provide another box, wherein all ballots which they shall reject shall be separately deposited by the said judges, each in a sealed or closed envelope, with the name of the party offering the same endorsed thereon; which said box shall be sealed up immediately after the said election, and deposited with the board of police aforesaid, until the end of twelve months next ensuing, when, if the said ballots shall not have been or shall not be required for the purpose of any election contest or judicial investigation, (in which cases they shall be produced and opened if necessary,) they shall be destroyed by the said board without being opened.

Ibid, sec. 216. Drinking houses to be closed.

19. It shall be unlawful to keep open in the said city on any election day, any drinking establishment or bar room, or any grog-shop whatsoever, or to furnish any spirituous or fermented liquor therein or therefrom, and any person or persons who shall be guilty of violating this section, or of retailing or dispensing any spirituous or fermented liquors on any election day in said city, shall on conviction thereof forfeit his or their license, if he or they shall have taken out any, and be disqualified from taking out any other license for the sale of such liquors for the space of five years thereafter, and shall moreover be liable to a penalty of five hundred dollars, to be recovered by said board of police by civil action in the name of the State; and it shall be the duty of said board and of the sheriff and his deputies, and of all policemen, constables and other peace officers, to take care that the provisions of this section be complied with, and to inform upon all persons violating the same, of whose offences they shall have knowledge or information.

Penalty for selling liquor.

Ibid, sec. 218. Judges to go before grand jury.

20. It shall be the duty of each and every of the said judges of election, immediately after each election at which they shall have acted as such, to appear before the grand jury of the Criminal Court of Baltimore city, if in session, and if not, before the grand jury of said court which shall next be in session thereafter, to be examined touching any

and all violations of the provisions of the Constitution, or of this article, or of any other law relating to elections, of which they may have personal knowledge, or which they may have reasonable ground to believe to have been committed at such election; and every judge of election in said city failing so to appear before the grand jury as aforesaid, prior to the adjournment of the same, and to give such information as aforesaid as he may possess in the premises, shall be liable to a penalty of five hundred dollars, to be recovered by the said board of police by civil action, in the name of the State, unless the judge or judges so failing to appear, shall have furnished to the said grand jury before their said adjourment, his or their certificate signed by him or them, and under oath made and certified before a justice of the peace of said city, that he or they did not know, and had no reason to believe, that any such offences had been committed at the said election; which certificates shall be returned by the grand jury to the said court, and preserved and recorded by the clerk thereof.

Penalty for neglecting so to do.

21. No grand jury sitting at the time of any election in said city, or assembling next thereafter, shall be discharged by the said court, until they have made written presentment, on their oaths, to the said court that they have diligently and to the best of their knowledge and ability, examined such judges of election as may have come before them, and inquired into and acted upon all complaints concerning alleged violations of the Constitution and laws touching elections at the election next preceding, and all matters concerning the same which have come to their knowledge, or concerning which they have had any information or reasonable ground for inquiry.

Ibid, sec. 219. Grand jury not to be discharged without presentment of judges' appearance.

22. It shall further be the duty of the said grand juries to make presentment to said court, on their said adjournment, of all judges of election who shall have failed to appear before or certify to them as aforesaid, who shall be at once arrested and held to bail to answer at the ensuing term of said court;

Ibid, sec. 220. Grand jury to present judges failing to appear.

On presentment, warrant to issue for.

Presentment to go to next grand jury.

Charge to jury.

Penalty.

and it shall be the duty of the State's attorney immediately to apply for, and of the court to issue a bench warrant for such arrest, and the State's attorney shall likewise lay the said presentment or presentments before the next grand jury, on the first day of their session, with the proper indictments thereupon, which it shall be the duty of the said grand jury to find on the said presentments; and the said court shall give the provisions of this article in relation to elections in charge to each and every grand jury which shall be in session at the time of any election held in said city, or next thereafter; and any failure so to do, and any neglect on the part of the judge of said court or of the State's attorney for said city to perform the duties by this section imposed on them respectively, shall be, and the same are hereby declared to be acts of criminal misbehavior in office on the part of said judge and State's attorney respectively.

Ibid, sec. 221. Penalty on judge of election failing to preserve peace.

23. Any judge of election who shall wilfully neglect, or shall when called on wilfully decline or refuse to exercise the power conferred on him by this article for preserving the peace on election days, and securing the tranquility and freedom of elections, and the safety and uninterrupted access of the voters to the ballot boxes, shall be liable for every such offence to a penalty of five hundred dollars, recoverable by civil action, by said board of police, in the name of the State.

1867, c. 141. Sheriff to give notice of elections.

24. The sheriff of Baltimore city, under the penalty of one thousand dollars, shall at least two weeks previous to every election in said city, whether federal, state or municipal, except special elections otherwise provided for, hereafter to be held in the said city, cause public notice to be given by advertisement set up at the most public places in each precinct of the several wards of said city, and also by advertisement in all the daily newspapers printed in the said city, of the time of holding said election in the said city, but if from any cause said notice shall fail to be given, said failure shall not effect the validity of the said election, or of any election

Failure of notice.

to be thereafter held, but it shall be the duty of the several judges of election in the said several precincts in the several wards of the said city, at the time prescribed by law, and at the place previously selected, and advertised by them as required by section ten of this article, and in default of any place having been selected or advertised as aforesaid, then at the usual places of holding elections in said several precincts, or at the place where the last preceding election was held in such precinct, under the penalty of five hundred dollars for each judge refusing or knowingly and wilfully neglecting to hold such election; and any judge of election who shall wilfully and knowingly refuse a legal vote when offered, or shall wilfully and knowingly receive an illegal vote, or conspire with any person or persons whatsoever to violate the provisions of this article, or of any other law, or of the Constitution of the State, touching elections, shall be guilty of a misdemeanor, and be subject to imprisonment for not less than six months for each and every such offence, upon indictment and conviction thereof in a court of competent jurisdiction, as well as to a penalty of one thousand dollars for receiving an illegal vote as aforesaid, to be recovered in a civil action by the said board of police, in the name of the State; and to a penalty of one thousand dollars for refusing a legal vote as aforesaid, to be recovered in a civil action, in any court of competent jurisdiction, by the person whose vote shall have been refused as aforesaid.

Places of election.

Penalty.

Judges refusing legal or allowing illegal votes.

Imprisonment.

Penalty.

25. If any person shall prevent or hinder, or attempt, or conspire with any other person or persons to prevent or hinder any voter from exercising his right of suffrage in the city of Baltimore, by threat, intimidation, violence, or any other unlawful means, whether before or during election time, or shall detain or imprison any person or persons with the view or intent of causing, procuring or forcing such person or persons to vote illegally, or against his or their will, or under compulsion, in any precinct in said city, such person so offending, and every person who shall be guilty of wilfully voting or offering to vote illegally, or causing or procuring

P. L. L., art. 4, sec. 223.

Penalty for preventing legal or procuring illegal voting; for voting illegally.

any other person to vote illegally, in any precinct of the said city, shall, on conviction thereof, be adjudged guilty of felony, and be sentenced to not less than two, nor more than six years imprisonment in the penitentiary; and it shall be deemed illegal within the meaning of this article, to vote or offer to vote in more than one precinct, or more than once in any precinct, at any election, or without being constitutionally or legally qualified, or in violation of the Constitution, or of this article, or of any other law; and all acts made punishable under article thirty-five of the Code of Public General Laws, when committed within or with reference to any election district or districts of any county, are hereby declared to be illegal when committed within or in reference to any election precinct or precincts aforesaid.

Ibid, sec. 224. Penalty for conspiring to prevent legal or procure illegal voting.

26. Any two or more persons who shall, during any election in the city of Baltimore, assemble, conspire or combine together for the purpose of driving any voter or voters from the polls, or preventing, or obstructing, or beating, injuring, or intimidating any voter or voters in coming to or returning from the polls; and any person or persons who shall assault, wound, beat or otherwise maltreat or injure, or shall offer to maltreat or injure, or shall by menace or violence, or otherwise, intimidate, overawe, or control any voter while at the polls, or going to or returning from the same; and any person or persons who shall wilfully destroy or mutilate, or attempt to destroy or mutilate, any ballot that may have been deposited in any ballot-box, or in any box for rejected ballots, in said city, or any election returns, clerk's book, tally list, poll book, list of voters, or certificate of election, or who shall steal or destroy, or attempt to steal or destroy, any box or boxes aforementioned, or withdraw, or attempt to withdraw, therefrom illegally any ballot or ballots which may have been deposited therein, or attempt or commit any violence against any person or persons having lawful charge of the same, or against any judge or clerk of election in the discharge of his duty as such; or who shall forcibly resist the execution of any lawful order of any judge or judges of elec-

For assaulting or intimidating voters.

For destroying ballots or ballot boxes.

For violence to judges or clerks

tion under the provisions of this article, or of any other law, or shall on election day, or while the returns of any election are being made up, forcibly resist any policeman or peace officer in the discharge of his duty at or about the polls, or under this article, or shall forcibly resist any private citizen acting lawfully under the lawful order of any judge of election given in conformity with this article, or any other law for the purpose of securing the peace and freedom of any election in said city; or shall seize, take, steal, mutilate, or destroy the naturalization papers, or certificate, or written evidence of naturalization of any naturalized voter, or attempt so to do either at or near the polls, or while the said voter shall be proceeding thereto or returning therefrom, shall be deemed guilty of felony, and be sentenced, upon conviction thereof, to confinement in the penitentiary for not less than three nor more than six years.

For resisting officers; for destroying naturalization papers.

27. If the said board of police shall have reason to believe that in the neighborhood of any election polls in the said city or elsewhere, within any election precinct of the same, there is any depot or collection of fire arms or other weapons or ammunition intended to be used for the purpose of intimidating or injuring voters, or interfering with the freedom or peace of any election then pending or approaching, it shall be the duty of the said board to apply to the Criminal Court, or some justice of the peace of said city, for a warrant, on proper oath, to search the premises, and the said court or justice shall issue the same without delay, and shall cause the said arms, weapons and ammunition, if found, to be seized and delivered to said board, to be detained until the day after the returns of said election shall have been made, and until the same shall be disposed of by law.

Ibid, sec. 225. Power to seize arms.

28. Nothing contained in this article shall be construed to deprive the said board of police of any police powers, or relieve them from any obligations imposed upon them by sections of the article relating to the said board of police, and prescribing their powers and duties; but the said

Ibid, sec. 226. Powers of board of police saved.

board of police may either carry out the orders of said judges of election, or themselves take command and control, if they deem necessary, of the persons and officers, and assume the conduct of the measures which may be required to promote the purposes of the preceding sections of this article relating to elections, and the security of the elective franchise.

1867, c. 141. How above provisions to apply to elections in Baltimore.

29. The provisions of the preceding sections of this article shall apply to all elections in the city of Baltimore, whether federal or state, or municipal, and all elections to take place hereafter in the city of Baltimore, shall be by ballot, and shall be held and proceed, and the returns thereof made in conformity with the provisions of article thirty-five of the Public General Laws, except in so far as the same may be modified by the provisions of this article, and no election to be held in the city of Baltimore, whether federal, state or municipal, shall be valid unless held under and in conformity with the provisions of this article, and under and subject to the provisions of the article establishing a permanent police in the city of Baltimore, and defining and enforcing its powers and duties, and under and subject to the control and command as to all police purposes of said board of police; and that no judge of any court in this State shall have or exercise the power of preventing or delaying the qualification of any mayor or members of the city council, or the exercise and performance of their official duties by injunction, recognizance or any other proceeding.[1]

Federal, State and municipal elections.

Board of police.

P. L. L., art. 4, sec. 228. Want of notice not to invalidate election.

30. No election to be held under the provisions of this article, and which shall be otherwise valid, shall be held invalid because of any failure of the said board of police, or the said judges, to make the advertisements hereinbefore required, or because of any disqualification or want of qualication of any judge or judges of election, or any member of said board; provided, however, that any wilful failure or neglect of said board or the said judges to make the said

Proviso.

[1] As to registration of voters, see 1868, c. 297, Sup. '68, p. 205, and *Hardesty* v. *Taft*, 23 Md., 526; *Anderson* v. *Baker*, *Ibid*, 615.

advertisement, or of the said board to appoint properly qualified judges, whether in the stead of any so disqualified or otherwise, shall be held and taken to be a misdemeanor, and shall be punishable by fine in the discretion of the court, on conviction thereof in a court of competent jurisdiction.

ORDINANCES.

1. The judges of elections for municipal officers, are hereby required to make return and deposit their polls with the register of the city in the time prescribed in section 19 of art. 4, of Public Local Laws.[1]

No. 93, Oct. 11, '60. Returns of judges.

2. If any person at any election hereafter held for any corporation purposes, having voted once, shall offer to vote again in any precinct of the same ward, he shall be subject to a penalty of ten dollars for such offence; and if any person shall offer to vote in any name not his own, or in place of any other person of the same name, or shall offer to vote in any precinct of any ward in which he does not reside, or residing out of the city, shall offer to vote at any such election, he shall forfeit twenty dollars; and in either case, it shall be the duty of the judges of election to cause his immediate arrest.

No. 2, s. 1, R. O. Penalty for illegal voting.

3. In case of any vacancy happening in the council,[2] the mayor is hereby authorized and directed immediately to issue his warrant to the judges of election in the precincts of the ward where such vacancy shall have happened, authorizing and directing them, or a majority of them, to hold an election in said ward to fill up such vacancy, and the judges shall give three days public notice previous to said election, of the time and place in said ward of holding such election.

Ibid, s. 2. Vacancy in city council.

4. All fines and forfeitures imposed by this ordinance shall be one-half for the informer, and the other half for the use of the city.

Ibid, s. 4. Fines and forfeitures.

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[1] Sec. 20, Art. 1, p. 11, *ante*.

[2] See sec. 19, Art. 1, p. 11, *ante*.

ARTICLE XVII.

FERRIES.

STATUTE.

1. Powers to Broadway and Locust Point Steam Ferry Company.
2. Ferry boats: hours of running.
3. Rates of fare.
4. Who to pass free.

STATUTE.

1868, c. 187, s. 2. Powers.

1. The Broadway and Locust Point Steam Ferry Company of Maryland[1] is created to establish a steam ferry, suitable to transport passengers, goods, wagons, carriages, live stock, or any other transportable article across, over and within the harbor of Baltimore, and the said corporation is hereby made capable of erecting wharves, buildings, or any other contrivances necessary or convenient for the conduct of the business of the ferry, for which purpose the said corporation is authorized to purchase, hold, sell, rent or lease land. And the said company is hereby authorized and empowered to hold and use as a wharf or landing, for the use of said ferry, the end of the wharf commonly known as the County wharf, together with a right of way in common with others, through the centre of the said wharf, of the width of ten feet, as a thoroughfare for travel to and from the end of said wharf, upon the condition that the aforesaid company within one year from the date of the passage of this act, shall construct the said wharf so as to extend with its present width at least fifty feet beyond its present terminus, or to the port warden's line, and all the costs and expenses of the said extension, together with the

[1] The Broadway and Locust Point Steam Ferry Company of Maryland, is incorporated by act of 1868, c. 187, with the usual powers and limitations.

costs and expenses of keeping the entire wharf in good condition and repair hereafter, shall be paid and satisfied by the said company; provided, that if the aforesaid company shall fail to have the said wharf extended in the manner aforesaid, within one year after the passage of this act, then, in that case, the said company shall not be entitled to use the end or any part of said wharf as a landing for their ferry boats, nor to use the centre, as above described, for a thoroughfare for travel; and all the remainder of the border sides and surface of the said wharf, except the end and right of way granted upon the conditions aforesaid, shall and the same is hereby reserved exclusively for the landing of such fruits, vegetables, and other agricultural products as may be brought from the counties to the city of Baltimore for sale or otherwise. Proviso.

2. The said corporation shall keep and run on their ferry routes two good and substantial steam ferry boats, staunch and seaworthy, and supplied according to the law in such cases made and provided, and the said boats shall every day, from six o'clock, A. M., be kept constantly running until eight o'clock, P. M., except that between every trip each shall delay at its respective point for a space of not more than seven minutes, to discharge and receive on board passengers and freight. Ibid, s. 3. Ferry boats. Hours of running.

3. The said corporation shall not charge any greater sums than are contained in the following scale of prices, to wit: For one passenger, five cents; for one horse, mule or ass, and rider or driver, ten cents; for one cow and driver, ten cents; for every swine, three cents; for every sheep, two cents; for every calf, two cents; for every heifer, three cents; for one horse, cart and driver, fifteen cents; for two horses, cart and driver, eighteen cents; for one horse, wagon and driver, fifteen cents; for two horses, wagon and driver, eighteen cents; for every additional horse to those above enumerated harnessed to a wagon or cart, three cents; for every two seated carriage and two horses, fifteen cents; for every four seated carriage and one horse, twelve cents; for every four seated carriage and two horses, twenty cents; for every additional Ibid, s. 4. Rates of fare.

horse to those above enumerated, harnessed to a carriage, five cents; for one lumber wagon and one horse or two horses, twenty-five cents.

Ibid, s. 5. Who to pass free.

4. The firemen in actual discharge of their duties, together with their apparatus, accoutrements and horses, police officers in the actual discharge of their duties, and all funerals, shall pass free.[1]

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[1] Ords. No. 3, Feb. 8, '62, No. 65, May 13, '64, No. 5, Nov. 11, '64, are rendered obsolete by above act. Ord. No. 172, May 28, '61, authorized the City Block Ferry and Towing Company to run a steam ferry boat from end of West Falls avenue to Great Hughes street. The Locust Point Steam Ferry Company of Maryland was incorporated by acts of 1849, c. 34, and 1852, c. 161.

ARTICLE XVIII.

FINES AND FORFEITURES.

STATUTES.

1. How collected under ordinances.
2. Right of appeal.
3. When suits in court to be tried.
4. Fines to whom payable.
5. Dispensaries.
6. No security to be taken for payment of fines and costs: person to be committed: provisos.

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1. City officers to commence suits before justices.
2. Suits: officers to report to mayor.
3. Register to pay costs.
4. Mayor to make compensation: register to pay: statement.
5. Mayor to take measures to recover money from justices, &c.
6. When informer to pay costs.
7. Superseded judgments of justices: copies to be filed with register.
8. When mayor may remit fines; proviso: list of fines remitted, for register.
9. When to pay costs and jail charges.

STATUTES.

P. L. L., art. 4, sec. 229. How collected under ordinances.

1. All fines, penalties and forfeitures imposed by the ordinances of the city, if not exceeding one hundred dollars, shall be recovered before a justice of the peace as small debts are,

and if any fine, penalty and forfeiture exceed the sum of one hundred dollars, it shall be recovered by action of debt in the name of the corporation in the Criminal Court of Baltimore.[1]

Ibid, sec. 230. Right of appeal.

2. An appeal shall lie from the judgment of a justice of the peace imposing any fine, penalty or forfeiture, under the ordinances of the corporation, to Baltimore City Court, and shall be heard and decided at the session of the court next succeeding the appeal, unless the court shall then be in session, in

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[1] Art. 40, of P. G. L. is as follows:

1. All fines, penalties and forfeitures, where the law imposing them does not prescribe the mode of collecting or enforcing them, shall be collected as follows: If not exceeding one hundred dollars, by action of debt in the name of the State before a justice of the peace; if exceeding one hundred dollars, by action of debt in the name of the State in the Circuit Court for the county where the offence was committed; or if in the city of Baltimore, in the Baltimore City Court; or if the fine, penalty or forfeiture exceeds twenty dollars, the same may be collected and enforced by indictment in the court having criminal jurisdiction in the county or city where the offence was committed.

2. No person shall be liable to an action of debt and to an indictment for the same offence, but whichever proceeding is first instituted shall be prosecuted and the other abandoned.

3. All fines, penalties and forfeitures, when recovered, shall be paid to the county or city where the same may be imposed, unless directed to be paid otherwise by the law imposing them; but if there be an informer, he shall have half, unless otherwise provided; this section not to apply to fines or forfeitures for offences at common law.

The term "debt" in that clause of the Const., art. 3, sec. 38, which provided that "no person shall be imprisoned for debt," does not embrace fines or penalties imposed by courts for a breach of the peace or the commission of a crime. *State* v. *Mace*, 5 Md., 337; *Day* v. *The State*, 7 Gill, 322; *Broadbent* v. *The State*, 7 Md., 249.

Where a party was indicted under the act of 1817, c. 227, [P. L. L., art. 2, sec. 115; art. 5, sec. 33; art. 9, sec. 53; art. 16, sec. 79; art. 18, sec. 61,] it was no objection to the judgment, of which the traverser could avail himself, that it adjudged the fine to the State, and did not award the one-half to the informer, as prescribed by the act. *Rawlings* v. *The State*, 2 Md., 201, and 1 Md., 127.

Sec. 21, of art. 48, of P. G. L., entitled, Insolvents, provides that, that article is not to apply to fines and forfeitures for violating the laws of this State, or the ordinances of any municipal corporation, but any person imprisoned for thirty days for not paying a fine or forfeiture not exceeding fifty dollars, or for sixty days when the fine exceeds fifty dollars, may petition and be released from such fines as if they were common debts.

which case, the appeal shall be heard and decided at that session, unless the court, in its discretion, shall grant a continuance.

Ibid, sec. 231. When suits in court to be tried

3. All suits in the Criminal Court for fines, penalties and forfeitures under the ordinances of the city, shall stand for trial at the first session of the court to which they are brought, and in the event of an appeal to the Court of Appeals in any such cause, the same shall stand for argument at the term to which the appeal is taken.

Ibid, sec. 232. Fines, to whom payable.

4. One-half of all fines adjudged by and accruing in the Criminal Court of Baltimore, (except those mentioned in the next succeeding section of this article,) when secured by the sheriff of Baltimore city, shall be paid to the mayor and city council of Baltimore; and out of said fines, the judge of said court may order and direct to be paid to the State's attorney for said city, such additional fees, in cases of extraordinary duration and trouble, as he may deem just and reasonable; but this section shall not have any effect upon the rights of informers.

Ibid, sec. 233. Dispensaries.

5. All fines imposed by said court on persons convicted of keeping houses of ill fame shall be divided equally between such dispensaries of said city as shall have had under their charge during the year preceding at least fifteen hundred patients.

Ibid, sec. 234. No security to be taken for payment of fines and costs. Person to be committed. Proviso.

6. No person shall hereafter be allowed to give security for the payment of any fine and costs imposed by the Criminal Court of Baltimore, but any person who shall be sentenced by the court to the payment of any fine and costs shall stand committed until they are paid; provided, that if such fine and costs are less than ten dollars, the person so sentenced shall be discharged from custody at the end of thirty days from the date of their imposition, if no imprisonment has also been ordered by the court, or at the end of thirty days from the expiration of the time for which said person shall have been ordered to be imprisoned, upon sufficient proof shown to the court that the person imprisoned is unable to pay the said fine and costs; and provided also, that

Proviso.

if the said fine and costs are more than ten and less than fifty dollars, the person so imprisoned shall be discharged from custody at the end of sixty days from the imposition thereof, if no imprisonment be ordered by the court, or at the end of sixty days from and after the expiration of the time for which said person has been ordered to be imprisoned, on proof shown of his inability to pay said fine and costs; and provided also, that if the said fine and costs exceed the sum of fifty dollars, the person so imprisoned shall be discharged from custody at the end of six months from the imposition thereof, or from the expiration of the term for which he was ordered to be imprisoned, on proof shown of his inability to pay. Proviso.

ORDINANCES.

1. Any officer of the city shall have full power and authority to commence and institute before a justice of the peace any writ or action in the name of this corporation to recover any penalty or penalties incurred by the violation of any ordinances of this city.[1] No. 71, s. 11, May 18, '64. City officers to commence suit before justices.

2. It shall be the duty of every officer of the city, who shall cause any suit to be instituted for the recovery of any fine, penalty or forfeiture, if there should be a verdict or judgment for the defendant, to make a report thereof to the mayor in writing, including in the report the names of all the witnesses in the case, and to file a list of the names of the witnesses among the papers in the cause, should an appeal be taken. Ibid, s. 12. Suits. Officers report to mayor.

3. The register is hereby authorized to pay to any officer of the city, any sum of money for costs incurred, and paid by such officer in any suit for a breach of any ordinance, when required by the mayor. Ibid, s. 14. Register to pay costs.

4. The mayor is hereby authorized to make any officer of the city an allowance, by way of compensation, for his trouble in enforcing the ordinances of the city, out of any fines or penalties which may hereafter be recovered and received; Ibid, s. 15. Mayor to make compensation.

1 See art. 12, Counsellor and Solicitor, *ante*.

Register to pay. and the register is hereby directed to pay the said allowance out of the said fines and penalties; and the mayor shall annually lay before the city council a statement of the amount so allowed by him to the several officers of the city.

Statement.

Ibid, s. 16. Mayor to take measure to recover money from justices, &c.

5. In all cases where money due or payable to the corporation has been or shall be received by a justice of the peace, or other officer, who shall neglect or refuse to pay over such money to the proper officer of the city, the mayor shall take speedy measures to recover the same, and also make a presentation of such conduct to the grand jury, or to the proper authority under which such officer may hold his appointment.

Ibid, s. 17. When informer to pay costs.

6. In all cases of information before any justice of the peace, for any violation of any ordinance, where there shall be a judgment of *non pros* or *non suit*, the informer, and not this corporation, shall be liable for the costs of the prosecution.

Ibid, s. 18. Superseded judgments of justices.

7. Whenever any judgment, which may be rendered by a justice of the peace, for any fine or penalty incurred by the violation of any ordinance, shall be superseded, it shall be the duty of the justice rendering such judgment to deliver to the officer who served the summons, a copy of such judgment, and the said officer, under the penalty of ten dollars, shall, within six days thereafter, file said copy with the register of the city, who is hereby authorized and directed, when the stay of execution on any such judgment has expired, to have the same collected by execution or otherwise.

Copies to be filed with register.

No. 19, Apl. 18, '61. When mayor may remit fines. Proviso.

8. The mayor is authorized and empowered to remit so much of any fine or penalty as to him shall seem just and reasonable; provided, that such power shall not extend to the costs of prosecution, and that the mayor shall hand over to the register of the city a list of all such fines remitted by him, with the names of the person, or persons, to whom such fines were remitted.

List of fines remitted for register.

When to pay costs and jail charges.

9. The mayor is authorized and empowered in all cases of actual confinement in jail of any person for a violation of the city ordinances to pay all costs of prosecution and jail

charges, in addition to the remission of the fine, in all cases where he may think it right and proper, and the register is directed to pay the amount out of the city treasury upon the order of the mayor.[1]

ARTICLE XIX.

FIRE.

STATUTES.

FIRE DEPARTMENT.

1. Corporation to establish.

FIRE INSPECTOR.

2. Powers of.

3. Summons.

FIRE CRACKERS.

4. Firing same

ORDINANCES.

FIRE DEPARTMENT.

1. Fire commissioners: terms of office.
2. Mayor to fill all vacancies.
3. Powers and duties of fire commissioners: fire department: suitable rooms: appropriations.
4. Control at fires: proviso.
5. Of what the fire department shall consist: what officers appointed by fire commissioners: removal.
6. Salaries.
7. Property.
8. Alarms: fire alarm telegraph.
9. Destroying property of fire alarm telegraph; hindering or obstructing fire company: penalty.
10. False alarm: penalty.
11. Reward to be offered by chief engineer.
12. Keys to engine, alarm box, &c.: penalty.
13. Uniforms; penalty.
14. Duties of chief engineer and assistants at time of fire.
15. Chief engineer to command at fires: to examine engines.
16. Returns: to keep rolls.
17. Assistant engineers to act in absence of chief.
18. City divided into districts.
19. Rules and regulations: each member to have copy: to post same in office and engine houses.
20. Standard screw for steam fire engines.
21. All screws to conform to said standard.
22. Fire plugs.
23. Lamps.

POLICE AND FIRE ALARM TELEGRAPH.

24. Superintendent, assistants and lineman.

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[1] No. 55 of R. O. is repealed by No. 19, Apl. 18, '61, above.

25 Charge of instruments, boxes and wires: test once a week: books: record of time: report: inspection: security to mayor.
26. Duty of operators: security to mayor.
27. Duty of lineman: security.
28. Salaries.
29. Officers at stations.

FIRE INSPECTOR.

30. His duties.
31. Duty of police: houses to be properly secured: owner to be notified: penalty: proviso.
32. Reward.

PREVENTION OF FIRES.

33. Lights in stables regulated.
34. Penalty for firing squibs, &c.
35. Sale of squibs, &c. prohibited: proviso: penalty.
36. Penalty for manufacturing squibs, &c.
37. Penalty for keeping ashes in certain places.
38. Hay and cut straw: penalty.
39. When notice to be given: proviso: when no notice required.
40. Fires on board ships regulated.

STATUTES.

FIRE DEPARTMENT.

P. L. L., Art. 4, sec. 236. Corporation may establish fire companies, &c.

1. The mayor and city council have power to establish and regulate fire wards and fire companies, and to pass ordinances for the prevention and extinguishment of fires.[1]

[1] Secs. 237 to 246, inclusive, of P. L. L., art. 4, related to the Baltimore United Fire Department. They are as follows:

237. Any person who shall wilfully destroy or injure any engine, hose, reel, or other apparatus whatever for the extinguishment of fires, belonging to any company in the city of Baltimore, or to the said city, shall be guilty of felony, and upon conviction thereof, shall be sentenced to confinement in the penitentiary for a period not less than two nor more than five years.

238. Any person who shall assault, beat, or otherwise intentionally hurt or injure any fireman of the city of Baltimore whilst in the discharge of his duties as fireman, (except in self-defence,) shall, upon conviction thereof, be sentenced to imprisonment in Baltimore city jail for a period not less than one month, and to the payment of a fine of not less than ten nor more than one hundred dollars.

239. Any person who shall remove any engine or other apparatus for the extinguishment of fire from the house or other place where the same shall be kept or deposited, unless properly authorized so to do by the president and directors of the company to whom the same may belong, or their duly authorized agent, shall forfeit and pay a sum not less than five nor more than twenty dollars, to be sued for and recovered in the name of the company, and for its use, before any justice of the peace, in the same manner that small debts are recoverable.

240. Any person who shall enter or remain in any engine house of any fire company, unless authorized so to do by the president and directors of said company, or by their duly authorized agent, shall forfeit and pay a sum not less than five nor more than twenty dollars, to be sued for and recovered in the manner directed in the last preceding section.

241. The president and directors of each fire company shall appoint some appropriate designation or badge to be worn by the members of said company in

FIRE INSPECTOR.

2. The fire inspector commissioned by the mayor under the ordinance of the corporation, may, whenever in his judgment the occasion demands it, issue a summons in the name of the State to any person requiring him to attend before such inspector, at such time and place as may be named in the summons, to testify under oath, to be administered by the inspector, as to the origin and cause of any fire occurring in the said city. Ibid, sec. 247. Powers of fire inspector.

3. Such summons may be directed to any police officer of the city, or any constable, sheriff or coroner of the said city who is authorized to serve the same. Ibid, sec. 248. Summons.

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front of their hats or caps, at all times when attending their engine; and if any person not a member of the company shall assume or wear said badge, or any imitation thereof, at any time when the company may be engaged in their appropriate duties, he shall be fined in a sum not exceeding five dollars, to be sued for and recovered before a justice of the peace as small debts, in the name of said company.

242. Any member of a fire company, notwithstanding his being a member of such company, shall be a competent witness in any case in which the penalties imposed in the three preceding sections are sought to be recovered.

243. Any minor who shall attach himself to the ropes of any engine or other apparatus for the extinguishment of fires, or run with the same, or in any manner connect himself about the same, shall, upon conviction thereof in the criminal court of Baltimore, or other court of competent jurisdiction, forfeit and pay a sum not less than ten nor more than twenty dollars, one-half to the beneficial fund of the Baltimore United Fire Department and the other half to the use of the informer, except the informer be a member of the said fire department, when the entire amount of said forfeit shall be for the use of the beneficial fund of that department.

244. Any minor, and all and every disorderly person or persons found running to a fire, or after, before or about an engine or other fire apparatus, who, after being warned away by any officer of a fire company, shall refuse or neglect to obey such warning, shall be deemed guilty of exciting to riot, and upon conviction thereof, before the criminal court of Baltimore, or any other court of competent jurisdiction, shall forfeit and pay not less than ten nor more than fifty dollars, one-half to the use of the beneficial fund of the Baltimore United Fire Department and the other half to the use of the informer, except the informer be a member of said fire department, when the entire amount of said forfeit shall be for the use of the beneficial fund of that department.

245. Any group or collection of minors or other persons found collected in any of the streets, lanes or alleys of the city of Baltimore, or any other place, for the purpose of intercepting the passage of any engine or other apparatus for the extinguishment of fires belonging to any one or more of the companies, shall

FIRE CRACKERS.

Ibid, sec. 249. Firing same.

4. The mayor and city council of Baltimore may pass all such ordinances as they may deem necessary and proper to suppress the evil and pernicious practice of firing and discharging crackers within the limits of said city, either by prohibiting the sale of crackers or otherwise.

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be deemed guilty of exciting a riot, and on conviction thereof before the criminal court of Baltimore, or any other court of competent jurisdiction, shall each forfeit and pay a sum not less than twenty and not exceeding fifty dollars, one-half to the use of the beneficial fund of the Baltimore United Fire Department, and the other half for the use of the informer, except the informer be a member of said fire department, when the entire amount of said forfeit shall be for the use of the beneficial fund of that department.

246. The standing committee of the Baltimore United Fire Department in the city of Baltimore, and the presidents of the several fire companies, shall severally, by virtue of their respective offices, be vested with and have and exercise all the powers and jurisdiction of a justice of the peace whilst accompanying any engine or other apparatus for the extinguishment of fire, and whilst attending at, going to, or returning from any fire.

The Baltimore United Fire Department was superseded by ordinance No. 5, approved Dec. 10, 1858, by the paid fire department now in operation. The Baltimore United Fire Department, by virtue of ordinance No. 11, Mar. 29, '65, and Res. No. 115, June 22, '65, transferred as a donation the five per cent. stock of the city to the amount of $12,000, in its name, as a permanent fund for the relief of disabled firemen, their widows and orphans, to the Aged Men's Home, of Baltimore. 1865, c. 57, recites that, Whereas, the Baltimore United Fire Department, incorporated by the legislature of Maryland, at December session, 1833, c. 187, having subserved the ends of its organization, and there being no longer any necessity for its service as a fire department, desires to donate and transfer its properties and effects to the benevolent institution, known as the Aged Men's Home, of Baltimore city, and to dissolve its organization and surrender its charter; therefore, it enacts, 1. That said Baltimore United Fire Department be and the same is hereby authorized and empowered, after having cancelled by payment all of its liabilities, to donate to the institution known as the Aged Men's Home, of Baltimore city, all of said Baltimore United Fire Department bonds, stocks, or other securities, and all other properties and effects of whatsoever kind, of which it may be the owner, as well as the interest accruing, or that may hereafter accrue on any of its stocks, bonds, and other securities.

2. That the said Baltimore United Fire Department, after having disposed of its properties and effects, as provided in the foregoing section, may dissolve its organization and surrender its charter.

3. That this act shall take effect upon its acceptance by the said Baltimore United Fire Department.

See, as to origin of paid fire department, Res. No. 82, May 31, '58; No. 117, June 16, '58; No. 75, Mar. 12, '59, and No. 251, Sept. 26, '59.

ORDINANCES.

FIRE DEPARTMENT.

1. There shall be appointed in the same manner as other city officers are appointed, five citizens of Baltimore, of good character, to serve as fire commissioners, and who shall be styled the Fire Commissioners of the city of Baltimore, and said commissioners shall draw for their respective terms of office, say two for the term of four years, and three for the term of two years, and every second year thereafter in the month of February, there shall be appointed in the same manner two or three persons as the case may be, who shall serve for the term of four years.[1]

No. 7, Feb. 21, '68; No. 5, Dec. 10, '58.

Fire commissioners.

Terms of office.

2. In case of death, resignation, disqualification or removal of, or the neglect or refusal to perform the duties incumbent upon their office, by any or all of said commissioners, the mayor shall proceed at once to fill such place or places by a new appointment in the usual manner.

Ibid, s. 2.

Mayor to fill vacancies.

3. Said fire commissioners shall have the appointment of, and entire control over all other employees and property of the fire department in conformity with this ordinance, and are held strictly accountable therefor to the mayor and city council, by whom, upon conviction of dereliction of duty, malfeasance in office, or violation of any of the provisions of this ordinance, they shall be removed from office; they shall keep a correct record of their proceedings, subject at all times to the inspection of the mayor and city council, and shall annually in the month of January, prepare an accurate report of the state of the department, two hundred and fifty copies of which shall be printed for the use of the said mayor and city council; they shall have authority to fit up, and appropriate to the use of themselves and the engineers, suitable rooms, centrally located, the necessary expenses of which shall be defrayed out of the funds appropriated for the use

Ibid, s. 3.

Powers and duties of fire commissioners.

Fire department.

Suitable rooms.

Appropriations

[1] This ordinance of Feb. 21, 1868; No. 7, entitled, an ordinance to provide for the re-organization of the fire department of the city of Baltimore, supersedes, in part, Ords. No. 5, Dec. 10, '58; No. 48, Mar. 30, '59; No. 18, Apl. 18, '61; No. 16, Apl. 16, '62; Res. No. 80, May 28, '58; No. 229, Sept. 15, '59.

of the department, and they shall have authority to draw upon the city register for such sum or sums of money as they may from time to time require, not exceeding the appropriations which may be made for the use of the department.

Ibid, s. 4. Control at fires.

4. The fire commissioners shall, during the occurrence of fires or alarm of fires, have authority for themselves, and the power to delegate to the chief engineer or his assistants, the authority to control all persons and property in the vicinity of a fire, during the continuance thereof; provided, that the exercise of such authority does not conflict with any law of the United States, or of the State of Maryland.

Proviso.

Ibid, s. 5. Of what the fire department shall consist.

5. The fire department of the city of Baltimore, shall consist of five fire commissioners, one chief engineer, two assistant engineers, one clerk, seven engine companies, each consisting of one foreman, one engineman, one assistant engineman, one hostler, and eight firemen, and two hook and ladder companies, each consisting of one foreman, one tillerman, one hostler, and ten laddermen, all of whom shall be of good character, and except those especially provided for in section first of this ordinance, shall be appointed by the fire commissioners, and shall be entitled to retain their respective positions for such time as they evince willingness and capacity to discharge the duties pertaining thereto efficiently, harmoniously with their associates, and satisfactorily to the fire commissioners; said employees shall not be subject to removal on account of any political, religious or other sentiments entertained by them, so long as said opinion or sentiment does not interfere with the faithful and efficient discharge of their respective duties as employees of the fire department.

What officers appointed by fire commissioners.

Removal.

Ibid, s. 6. Salaries.

6. The salaries of the employees of this department shall be as follows: the chief engineer, fifteen hundred dollars per annum, payable monthly; the assistant engineers, each eleven hundred dollars per annum, payable monthly; the clerk, twelve hundred dollars per annum, payable monthly; the foremen, each four hundred dollars per annum, payable

monthly; the enginemen, each one thousand dollars per annum, payable monthly; the assistant enginemen, each seven hundred dollars per annum, payable monthly; the tillermen and hostlers, each seven hundred dollars per annum, payable monthly; the firemen, each three hundred dollars per annum, payable monthly.

Ibid, s. 7. Property.

7. The property of each engine company, shall consist of not less than one steam fire engine, one hose carriage, one thousand feet of hose, and four horses, together with all the minor accessories for effectual service; and the property of each hook and ladder company, shall consist of not less than one ladder truck, with all necessary ladders and implements, and three horses.

Ibid, s. 8. Alarms.

Fire alarm telegraph.

8. It shall be the duty of the members of the police department, in the district in which the fire may occur, to communicate the fact to the central station, by means of the signal box in the district in which the fire may be, in accordance with the rules and regulations governing the signal boxes, and the number of the signal box from which the alarm proceeded; and when a police officer has an alarm bell in his district, it shall be his duty to ring the same by striking the location as indicated by the fire alarm telegraph.

Ibid, s. 9; No. 94, s. 8, June 24, 59; No. 19, s. 8, Apl. 17, '63.

Destroying property of fire alarm telegraph

Hindering or obstructing fire company.

Penalty.

9. Should any person or persons injure, deface, or in any manner destroy any fire apparatus or property of the fire alarm telegraph, or should any person or persons hinder or obstruct any city fire company, or hook and ladder company, or any member thereof, from freely passing along the streets of the city to or from a fire, or in any manner hinder or prevent any of the said fire companies, or any member of the same from operating at any fire, or prevent a person properly authorized from using the signal boxes of the police and fire alarm telegraph, each and every person or persons so hindering, obstructing, or preventing, shall be fined not less than twenty dollars nor more than fifty dollars, to be recovered as other city fines are recovered; one half to the informer, the other half to the city.

Ibid, s. 10; No. 34, May 5, '68; No. 18, Apl. 18 '61.
False alarm.
Penalty.

10. Should any person or persons knowingly give or cause to be given, any false alarm of fire by means of the telegraph boxes connected with the fire alarm telegraph, he, she, or they shall be subject to a fine of not less than three hundred dollars, nor more than five hundred dollars, to be recovered as other fines are recoverable.

Ibid, s. 11; No. 18, Apl. 18, '61.
Reward to be offered by chie engineer.

11. Authority is hereby given to the chief engineer of the fire department, in his discretion, and with the approbation of the mayor, to offer a reward of one hundred dollars, or less, for the apprehension and conviction of any person or persons who shall knowingly give or cause to be given, any false alarm of fire by means of telegraph boxes connected with the fire alarm telegraph.

Ibid, s. 12; No. 15, Apl. 18, '62.
Keys to engine, alarm box, &c.
Penalty.

12. Should any person or persons unauthorized, have in his, her, or their possession, or make or cause to be made, any key or keys of any fire engine or truck house, or fire alarm telegraph box, or use or cause to be used the same, except the mayor, fire commissioners and chief engineer, without the consent of the proper authority, he, she, or they shall be subject to a fine of not less than one hundred dollars, and not more than two hundred dollars; to be recovered as other fines are recoverable.

Uniforms.
Penalty.

13. Should any person or persons not a member of the city fire department, use the uniform determined upon by the fire commissioners, or any part thereof, without their permission, such person or persons shall each be fined not less than five dollars, nor more than twenty dollars for each and every offence, to be recovered as other city fines are recoverable.

No. 5, s. 12, Dec. 10, '58.
Duties of chief engineer and assistants at time of fire.

14. It shall be the duty of the chief engineer, and his assistants, whenever a fire shall break out in the city to immediately repair to the place of such fire, and to take proper measures that the several engines and other apparatus be arranged in the most advantageous situations.

No. 16, s. 1, Apl. 18, '62.
Chief engineer to command at fires.

15. The chief engineer shall, under the fire commissioners, have command at fires, over all other officers, and all other persons who may be present at fires, and shall take all

proper measures for the extinguishment of fires, and for the protection of property, preservation of order, and observance of laws of the State, ordinances of the city and regulations of the fire commissioners respecting fires; and it shall be the duty of said engineer to examine into the condition of the engines and all other fire apparatus, and of the engine and other houses belonging to the city, used for the purposes of the fire department, and the companies attached, as often as circumstances may render it expedient, or whenever directed to do so by the fire commissioners, and whenever the engines or other fire apparatus, engine or other houses used by the fire department require alteration, additions or repairs, the chief engineer shall report the same to the fire commissioners, and on their order, such alterations, additions or repairs shall be made. To examine gines.

16. It shall be, moreover, the duty of the said chief engineer to receive and transmit to the said fire commissioners, for the use of the council, all the returns of the officers, members and fire apparatus, made by the respective companies, and all other communications relating to the affairs of the fire department; to keep fair and exact rolls of the respective companies, specifying the time of admission and discharge, and age of each member, which he shall report in writing to said fire commissioners, who shall safely file such reports. Ibid, s. 1. Returns. To keep rolls.

17. In case of the absence of the chief engineer the assistant engineer in whose district the fire may occur, shall exercise the duties of his office with the full power of the chief engineer. No. 5, s. 14, Dec. 10, '58. Assistant engineers to act in absence of chief

18. The city shall be divided into two fire districts, the first comprising all that part of the city lying west of Calvert street, the second district all that part of the city lying east of the same. Ibid, s. 15. City divided into districts.

19. The fire commissioners shall prepare rules and regulations for the government of the fire companies and the mem- Ibid, s. 16. Rules and regulations.

Each member to have a copy.

To post same in office and engine houses.

bers thereof, and furnish each member of the fire department with a copy of said rules, and to have said rules posted conspicuously in the office of the department, and in and about the several engine houses belonging to the department.

No. 37, Mar. 23, '59.
Standard screw for steam fire engines.

20. The standard screw of the suction tubes of the steam fire engine, and the large openings in the steam fire plugs shall be five and one-half inches in diameter, with five threads to the inch, and the standard screw for the hose shall be three inches in diameter, with seven threads to the inch.

All screws to conform to said standard.

21. The water engineer is hereby directed to cause the screws of all fire plugs hereafter inserted by him to conform to the above section of this ordinance.

No. 48, s. 8, Mar. 30, 59.
Fire plugs.

22. The chief engineer or his assistants shall have the use and control of any and all fire plugs belonging to the city of Baltimore on the occurrence of fires.

Res. No. 318, Sept. 18, '60.
Lamps.

23. The superintendents of lamps are hereby directed to have the lamps lighted in front of the different engine and hook and ladder houses every night during the year.

POLICE AND FIRE ALARM TELEGRAPH.

No. 19, s. 1, Apl. 17, '63.
Superintendents, assistants and lineman.

24. There shall annually be appointed, as other city officers are now appointed, six temporary additional police officers, one of whom shall be well versed in telegraphic operations, to be called the superintendent of the police and fire alarm telegraph, four of whom shall be skilled in telegraphic operations, as operators, and one competent person to act as lineman, who shall each of them give their undivided time to the duties of their respective office as hereinafter provided, and it shall not be lawful for them, or either of them, to be engaged in any other business.[1]

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[1] See, for origin of police and fire alarm telegraph, Res. No. 11, Dec. 7, '58; No. 123, July 6, '58.

The alarm telegraph was first established by Ord. No. 94, June 24, '59, entitled An ordinance to provide for the care and management of the police and fire alarm telegraph and for the protection of the same, superseded by Ord. No. 19, April 17, '63.

25. The superintendent of the police and fire alarm telegraph shall have the general superintendence of the same; he shall have charge of all the instruments, alarm boxes and wires; see that they are at all times in good order, and promptly repaired, when reported out of order; it shall be his further duty to test all the instruments and alarm boxes at least once a week; see that the operators and lineman promptly perform their duty as hereinafter provided; he shall keep such books as may be necessary, in which shall be recorded all such matters as may be necessary for a full understanding of the operations of the telegraph, and a book in which he shall record all instruments, alarm boxes or wires reported out of order, with the date and a record of the time the same was repaired, and shall annually, on the first day of January, make a report of the operations of his office to the mayor and city council. All books and papers connected with the office shall at all times be open to the inspection of the mayor and city council. He shall enter into good and sufficient security to the mayor and city council in the sum of two thousand dollars for the good and faithful performance of the duties of his office.

Ibid, s. 2; Res. No. 145, Oct. 2, '62.
Charge of instruments, boxes and wires
Test once a week.
Books.
Record of time.
Report.
Inspection.
Security to mayor.

26. The operators shall attend at the central police and fire alarm station, at least two of whom shall be on duty at all hours, day and night; they shall promptly reply to all messages from any of the police stations, and should a message be received from any of the city departments, they shall cause the same to be promptly delivered; it shall be their further duty, immediately on the receipt of an alarm of fire, to transmit the same over the wires, and do and perform all such duties appertaining to their office as may be required of them by the superintendent; they shall each of them enter into good and sufficient security to the mayor and city council in the sum of eight hundred dollars for the good and faithful performance of the duties of their office.

Ibid, s. 3.
Duty of operators.
Security to mayor.

27. It shall be the duty of the lineman to attend personally at the central office of the police and fire alarm telegraph sta-

Ibid, s. 4.
Duty of lineman.

tion; he shall take charge of all the batteries of the police and fire alarm telegraph, keeping the same at all times in good working order; do all the repairing to the same, and attend to the repairs of all the lines, keeping them in perfect working order and free from obstructions, and do and perform all such other duties appertaining to his office as may be required of him by the superintendent; he shall enter into good and sufficient security to the mayor and city council, in the sum of eight hundred dollars, for the good and faithful performance of the duties in his office.

Security.

Ibid, s. 5; No. 47, July 22, '67; No. 31, Apl, 5, '66; No. 60, Apl. 29, '64.
Salaries.

28. The salary of the superintendent shall be twelve hundred dollars per annum; the salary of each of the operators and lineman one thousand dollars per annum, payable monthly.

Ibid, s. 6.
Officers at stations.

29. The batteries at the other station houses shall be in charge of and operated by the officers in charge of the stations; all, however, under the control and direction of the superintendent.[1]

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1 The alarm telegraph boxes, &c., were provided for by Ord. No. 108, Sept. 15, '59, and Res. No. 152, Apl. 28, '60.

The list of telegraphic fire alarm stations is as follows:

No. 1—Central Police Station, Holliday st.
" 2—Calvert and Lombard.
" 3—Baltimore and Hanover.
" 4—Pratt and Gay.
" 5—No. 1 Truck House, Harrison st.
" 6—Charles and Camden.
" 7—Howard and German.
" 8—Pratt Street Bridge.
" 9—Charles and Mulberry.
" 12—No. 3 Engine House, Lombard street.
" 13—No. 2 Engine House, Barre st.
" 14—No. 2 Truck House, Paca st.
" 15—No. 6 Engine House, Gay and Ensor.
" 16—Aisquith and Douglas.
No. 17—No. 7 Engine House, Eutaw and Ross.
" 18—Western Police Station, Green street.
" 19—Penn and Lombard.
" 21—Bank and Exeter.
" 23—William and Montgomery.
" 24—Caroline and Lombard.
" 25—Bond and Jefferson.
" 26—Light and Cross.
" 27—Eastern Police Station, Bank street.
" 28—Fayette and St. Paul.
" 29—Eutaw and Cross.
" 31—Fremont and Columbia.
" 32—Franklin and Chatsworth.
" 34—Belair and Central avenues.

FIRE INSPECTOR.

30. The mayor, at his discretion, may commission as fire inspector, such person as may be named and appointed by the fire insurance companies of the city of Baltimore or a majority thereof—such inspector to be paid by said companies. And it shall be the duty of said inspector to examine into, report upon, and keep a record of all fires occurring in said city, and the origin thereof, and a brief description of the premises wherein the fire may have originated, whether

No. 30, s. 9, R. O. Appointed. His duties.

No. 35—Richmond Market.
" 36—Southern Police Station.
" 37—Eager street and Morton alley.
" 38—North and Monument.
" 39—Ellicott and Cheapside streets, Canton.
" 41—Harford ave. and Eager st.
" 42—Drawbridge, foot of Falls.
" 43—Fremont and Lexington.
" 45—Pratt and Poppleton.
" 46—Front and Bath.
" 47—Locust Point.
" 48—Pearl and Saratoga.
" 49—Frederick and Calverton roads.
" 51—No. 5 Engine House, Ann st.
" 52—Pennsylvania av. and Dolphin street.
" 53—Baltimore and Republican.
" 54—Canton av. and Chester st.
No. 56—Pennsylvania av. and Fremont street.
" 57—Baltimore st. and Frederick road.
" 61—Saratoga and Schroeder.
" 62—Madison and Forrest.
" 63—Broadway and Thames.
" 64—Lexington and Stricker.
" 65—Dolphin st. and Falls road.
" 71—Pratt and Eutaw.
" 72—Clay and Park.
" 73—Monument st. and Plover alley.
" 74—Gay st. and Broadway.
" 75—Light and Heath.
" 81—Eutaw Place and Dolphin st.
" 82—Canton av. and Caroline st.
" 83—Baltimore and Wolf.
" 91—Central and Harford avenues.
" 92—Oregon and Townsend.

The bells of the fire department strike the number of the box thus: If the alarm comes from box 25, they strike 2—5, 2—5. In cases of general alarm, reqniring the services of the entire department, the bells ring incessantly in quick succession.

By Res. No. 145, Oct. 2, '62, the police commissioners are requested to have the clocks at the several police stations regulated by the clock at the telegraph office, and to instruct the police to set their watches each day by the clock at the police station to which they may be attached, before going on duty, and that they hereafter promptly repair to the telegraph box on their several "beats" at 12 o'clock, noon, and if the bell in the box does not ring, that they be required to report the fact immediately to their respective police stations, and the officer in charge shall forthwith communicate the fact to the central office; and further, the police commissioners are requested to require the police, in case a fire should occur on the "beat" assigned them, and the nearest telegraph box fail to give the necessary alarm, to immediately repair to the next nearest box, and if that should also be out of order, to visit the boxes next in location until the alarm is given.

of brick or frame, and how occupied, whether as dwelling, store, workshop, or otherwise, of all which a report shall be made to the mayor on the first of each month; and he is further authorized to examine all buildings hereafter to be erected or altered in said city, as to whether the same are built, erected or altered in conformity to the ordinances of said city, and any person or persons interfering with (for the purpose of preventing) said inspector in the discharge of his duties, as herein mentioned, shall be liable to a fine of not less than five nor more than twenty dollars; provided, that the city authorities shall not, in any manner, be liable for the payment of the salary of said inspector, nor for any of the expenses incidental to such office; and that the mayor may revoke and annul the said commission at such time or times as he may deem proper.

Proviso.

No. 20, Apl. 25, '62.

Duty of police.

Houses to be properly secured.

To be notified.

31. It shall be the duty of the police, whenever they shall learn or know, or have cause to believe, that any unoccupied house or houses are not properly secured, to inform the fire inspector, who shall immediately visit the premises, and notify the owner or owners, agent or agents, by a written or printed notice delivered at their residence or place of business, of the condition of such unoccupied house or houses, to have it or them properly secured, so as to prevent evil disposed persons from gaining access, and in case of such owner or owners, agent or agents neglecting or refusing to have the same properly secured within twenty-four hours after notice, he, she or they shall incur a penalty of one dollar for each refusal or neglect, and two dollars per day for each day, he, she or they may refuse or neglect, until such notice is complied with, to be recovered as other fines and forfeitures are now recoverable; provided, that this ordinance shall not be construed to apply to houses in the course of construction.

Penalty.

Proviso.

No. 207, May 30, '68.

Reward.

32. The fire inspector is hereby authorized and empowered to offer a reward of five hundred dollars for the arrest and conviction of any party or parties who have been guilty of setting fire to any house or tenement in the city—the money to be expended and paid under the direction of the mayor.

PREVENTION OF FIRES.

33. No person or persons shall carry a lighted candle or lamp into any stable, or make use of it there, unless the same is well secured in a tin, horn, or glass lantern, under a penalty of five dollars. No. 33, s. 44, R. O. Lights in stables regulated.

34. No person shall cast, throw or fire any squib, rocket, cracker, torpedo, granade, or other combustible fire works or explosive preparation, within the city; and every person, for every such offence, shall forfeit and pay a sum not exceeding five dollars. Ibid, s. 45. Penalty for firing squibs, &c.

35. It shall not be lawful for any person or persons to sell or offer for sale within the limits of the city, any crackers, squibs, rockets or other combustible fireworks; provided, however, that this section shall not apply to the sale of any such article when sold in the original package as imported, and every offender against any of the provisions of this section shall pay for each and every offence two dollars. Ibid, s. 46. Sale of squibs, &c., prohibited. Proviso. Penalty.

36. It shall not be lawful for any person or persons to manufacture, within the limits of the city, any crackers, squibs, rockets, or any other combustible fireworks, and every offender against the provisions of this section shall forfeit and pay the sum of twenty dollars for each and every offence. Ibid, s. 47. Penalty for manufacturing squibs, &c.

37. No person shall keep ashes in any barrel, box or other wooden vessel, or on any wooden floor in any building, under a penalty of five dollars for each offence. Ibid, s. 58. Penalty for keeping ashes in certain places.

38. It shall not be lawful for any person or persons to keep hay and cut straw on his or their premises, provided 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; for any violation of this section, the person or persons so offending shall forfeit and pay ten dollars, to be recovered as other city fines are recoverable. No. 5, Feb. 27, '60. Hay and cut straw. Proviso. Penalty.

No. 35, May 2, '62.

When notice to be given.

39. Parties shall not be liable for the fines and penalties imposed by preceding sections 33, 37 and 38, unless a notice has been given to the said party or parties so offending, and the necessary time has been allowed for a compliance with the requirements of said sections; provided, however, that the provisions of this section shall not be applicable to a party or parties who may commit the same offence a second time, or fail to comply with the requirements of said sections, after the notice aforesaid has been given, or when the offence was knowingly or wilfully committed.

Proviso.

When no notice required.

No. 23, s. 13, R. O.

Fires on board ships regulated

40. No person in charge of any ship or vessel, shall permit any fire to be kept on the deck thereof while lying at any wharf or dock within the city, between the hours of ten o'clock at night and five o'clock in the morning, from the first day of April to the first day of October, and between the hours of nine o'clock at night and six o'clock in the morning, from the first day of October to the first day of April; and it shall be the duty of the police officers to visit the bay craft within their respective districts, and give information of this regulation to some person on board.

Duty of police.

ARTICLE XX.

GAMING.

ORDINANCE.

1. Penalty for fraudulent gaming and betting.
2. Penalty for gaming in ordinaries: liability of keepers of ordinaries.
3. Penalty for keeping gaming tables, &c.
4. Police to give information and suppress gaming: mode of proceeding: penalty for refusing to open rooms to police.
5. Horse racing prohibited.
6. Long bullets prohibited.
7. Fines.

ORDINANCE.

No. 36, s. 1, R. O.

Penalty for fraudulent gaming and betting.

1. If any person or persons shall, within the city of Baltimore, by any fraud, cozenage, deceit, unlawful device, or evil practice whatsoever, in playing at or with cards, dice or any other game or games, play for, win, obtain or acquire to him

or themselves, or others, any sum or sums of money or other valuable thing, or shall, knowing of such fraud, bear a share or part in the wager, stake or adventure so played for, or shall, with the like knowledge, bet on the side or hand of such gamesters, every such person being thereof convicted, shall for every offence forfeit and pay twenty dollars.[1]

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[1] The P. G. L., Art 30, secs. 56 to 66, relating to gaming, is as follows:

56. No person shall keep any gaming table, or any house, vessel or place, on land or water, for the purpose of gambling.

57. Every faro table, E O. table, equality, or any other kind of gaming table, (billiard table excepted,) at which any game of chance shall be played for money or any other thing, shall be deemed a gaming table.

58. No person shall lease or rent any house, vessel or other place to be used for gambling.

59. Any person keeping a gaming table, or other place for gambling, shall be deemed guilty of a misdemeanor, and on conviction thereof, fined or imprisoned at the discretion of the court, not exceeding five hundred dollars or six months.

60. If the owner, tenant or occupant of any house, vessel or other place, shall knowingly permit any gaming table to be kept therein, he shall be guilty of a misdemeanor, and on conviction thereof, shall suffer the penalties prescribed in the preceding section.

61. Any person who may lose money at a gaming table, may recover back the same as if it were a common debt, and may be a competent witness to prove the sum he lost, but no person shall recover any money or other thing which he may have won by betting at any game, or by betting in any manner whatsoever.

62. All games, devices and contrivances at which money or any other thing shall be bet or wagered, shall be deemed a gaming table within the meaning of the preceding sections.

63. Any person who shall win any money or other thing by the thimbles, or what is called the little joker, or by any other device, or fraudulent trick whatsoever, on conviction thereof, shall be imprisoned not less than six months nor more than two years, and fined not exceeding one hundred dollars.

64. The courts shall construe the preceding sections relating to gambling and betting liberally, so as to prevent the mischiefs intended to be provided against.

65. No person shall refuse to testify concerning any gaming or betting because his testimony would implicate himself, but when any such person is required to testify in behalf of the State, he shall not be prosecuted for any offence to which his testimony relates.

66. All constables and police officers are required to visit all places where they shall have reason to suspect gaming tables are kept, and to have all persons prosecuted offending against the laws prohibiting gambling.

If a billiard table, excepted from the penalties of an act, were in fact used as a faro table, *ipso facto*, it would lose its privilege. *The State* v. *Price*, 12 G. & J., 260.

Ibid, s. 2, Penalty for gaming in ordinaries.

2. If any person or persons shall at any time, in any ordinary or licensed house of entertainment within the city, or in any house attached thereto, or upon the lot or premises whereon such licensed house is or may be situate or erected, win or lose one cent or upwards, or the value thereof, at cards or any other game, every such person or persons on conviction thereof, shall forfeit and pay one hundred dollars for every offence; and if any ordinary keeper shall suffer or permit any person or persons to lose one dollar or upwards, or the value thereof, at any time in his house, at any game or games whatsoever, knowing the same, he shall forfeit and pay for every such offence the sum of one hundred dollars.

Liability of keepers of ordinaries.

Ibid, s. 3. Penalty for keeping gaming tables, &c.

3. If any person or persons shall within the city set up, keep or maintain any E. O., A. B. C., rooley pooley or faro table, faro bank or device, or game of hazard or address, (except games licensed under article Licenses,) for the pur-

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It is not indispensable that an indictment for keeping a gaming table, framed under the act of 1826, c. 88, [sec. 57,] should set forth an express negation of the exception of billiard tables. And if the indictment be in the language of the statute, it is sufficient; and if the indictment charges for keeping a gaming table, "called a faro table," these last words are unnecessary. That a faro table is not a billiard table, is a fact within the knowledge of the community at large; and there is no presumption of law or fact to prevent the court from judicially knowing what a faro table is. *The State* v. *Price*, 12 G. & J., 260. See *Rawling* v. *The State*, 2 Md., 201.

Money lost by gaming may be recovered under Stat. 9 Anne, c. 14, [sec. 61,] in an action for money had and received, though the winner received payment of the sum won in goods. Held, that evidence that the plaintiff gave the defendant orders for goods to the amount of the money won, which goods the defendant obtained and the plaintiff afterwards paid for, was sufficient to support the declaration. *Hook* v. *Boteler*, 3 H. & McH., 348.

The Stat. 9 Anne, c. 14, making void all securities given for gambling considerations, is in force in this State; there is nothing in the act of 1813, c. 84, [sec. 61,] or any previous law, which either in express terms, or by necessary implication repeals it. Equity will grant relief against a judgment at law upon a bond given for a gambling consideration, though no such defence was made in the suit at law, and it makes no difference that the judgment was recovered by a *bona fide* assignee for value and without notice. If, when executed, the bond was intended by the obligor, to secure the payment of money won of him by the obligee, who took and held the security for that purpose, it was void when given, and a subsequent discovery, by the obligor, that he was the winner instead of loser, will not make it less obnoxious to the laws against gambling. *Gough* v. *Pratt, adm. and Thomas* v. *Watson, in note*, 9 Md., 526.

pose of public gaming, such person or persons shall for each and every offence forfeit and pay fifteen dollars on conviction thereof; and the occupier or occupiers of the house, out house or place in which such public gaming takes place, shall forfeit and pay twenty dollars for each and every day such game is played, or such E. O., A. B. C., rooley pooley or faro bank, faro table or other device for the purposes aforesaid, shall be set up, kept or maintained on his or their premises.

Ibid, s. 4.

Police to give information.

4. It shall be the duty of the police officers to give information to the mayor or other magistrate, of each house or other place within the city wherein such games or device or tables for the purpose of gaming are, or may be set up, kept or maintained; and the said police officers shall take all lawful means to suppress and prevent the playing at the tables, games or devices as aforesaid; and for this purpose, when and as often as any one of them shall have reasonable cause to suspect that any such table, game or device is set up, kept and maintained as aforesaid, he shall apply to a justice of the peace for a warrant, and shall state under oath the cause of such suspicion, whereupon the said justice may, in his discretion, grant a warrant to any police officer or officers, authorizing him or them to enter such house, houses or place, or any room within the same; and the said police officer or officers shall thereupon have authority to demand entry therein; and any person who shall refuse or neglect to open the door or entrance to such house, houses or place, or any room within the same, upon application of any police officer having such a warrant, for every offence shall forfeit and pay twenty dollars.

And suppress gaming.

Mode of proceeding.

Penalty for refusing to open rooms to police.

Ibid, s. 13.

Horse racing prohibited.

5. No person or persons shall within the city of Baltimore, enter, start or run any horse, mare or gelding, for any plate, prize, sum of money or thing of value; and in case any person or persons shall enter, start or run any horse, mare or gelding within said city, for any plate, prize or sum of money or other thing of value, each and every such person and each and every owner of such horse, mare or gelding, knowing and

consenting to the same, shall severally forfeit and pay the sum of five hundred dollars for each and every offence.

Ibid, s. 15. Long bullets prohibited.

6. It shall not be lawful for any person or persons to play at the game commonly called long bullets, or by whatever name the same may be hereafter called, within the limits of the city, under a penalty of two dollars for each and every offence.

Ibid, s. 17. Fines.

7. All fines imposed by this ordinance, shall be one-half for the informer and the other half for the use of the city.[1]

ARTICLE XXI.

GUNPOWDER AND INFLAMMABLE OILS.

STATUTES.

1. Storage of gunpowder.
2. Storage of naval stores, &c.

ORDINANCES.

GUNPOWDER.

1. Keeper: his duties: rates of storage: proviso: keeper to collect storage: when and how gunpowder may be sold for storage: keeper's books and accounts regulated: monthly reports to mayor and payments: bond.
2. Gunpowder brought into the city by land or water regulated: proviso: regulations for vessels landing or receiving gunpowder: penalty for violating regulations.
3. Gunpowder carried through city regulated.
4. What quantity of gunpowder may be kept: proviso.
5. How to be kept: penalty.
6. Duties of mayor and justices of the peace.
7. Owners, &c. of ships: penalty.

MANUFACTURE OF OILS.

8. Manufacture of what oils regulated: ten days' notice: penalty.

STORAGE OF OILS, &C.

9. Storage of what oils unlawful.
10. How much may be kept for sale.
11. Distillers of oils, &c.: proviso: fire proof building.
12. Refined petroleum, &c.
13. Naptha and benzone.
14. Crude rock or earth oil, &c.: refined rock, coal oil, &c.
15. Penalties.

SHAVINGS.

16. Where shavings to be deposited and burnt: penalty.

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[1] See Licenses and Sabbath breaking, *post*.

STATUTES.

1. The mayor and city council may erect and provide magagines for the storage of gunpowder brought to the city, and compel the storage thereof therein, and regulate the price of such storage. P. L. L., art. 4, sec. 29. Storage of gunpowder.

2. They may prevent the storage of naval stores or other combustible matter in such quantities or places within the city as may be deemed dangerous. Ibid, sec. 30. Storage of naval stores, &c.

ORDINANCES.

GUNPOWDER.

1. There shall be annually appointed, as other city officers are, a superintendent or keeper of gunpowder, who shall receive a salary of four hundred dollars a year, and who shall attend at the public magazine intended for the storage of gunpowder within the city of Baltimore, every day (Sundays excepted,) from the hour of nine o'clock in the morning until four o'clock in the afternoon, and shall receive and store within said magazine, all gunpowder delivered there for that purpose, and shall give a receipt for the same, mentioning the marks thereof; he shall be entitled to the following storage for all gunpowder thus received by him, to wit: for every barrel or quantity of one hundred pounds weight, in whatsoever description of vessel contained, twelve cents; for every half barrel, or quantity of fifty pounds weight, in whatsoever vessel contained, ten cents; and for every quarter barrel or twenty-five pounds weight, in whatsoever vessel contained, eight cents per month, and in like proportion for any intermediate or less quantities or any shorter time; provided, nevertheless, that all gunpowder thus stored in quantities of less than one hundred quarter barrels, shall be charged at least one month's storage, at the above rates, whether it shall actually have been stored so long or not. And the said superintendent shall collect the storage thus authorized to be charged from the person storing the gunpowder as aforesaid, or the owner thereof, every three months; and in case any No. 5, s. 1, R. O.; No. 47, s. 1, R. O. Keeper, his duties. Rates of storage. Proviso. Keeper to collect storage.

When and how gunpowder may be sold for storage.

gunpowder thus stored shall remain twelve months or upwards in said magazine, without said storage having been paid thereon, the said superintendent, with the approbation of the mayor, shall, after public notice for that purpose, cause the same to be sold at auction, or so much thereof as may be sufficient to discharge the storage due thereon. The said superintendent shall enter, in a book or books which shall be the property of the mayor and city council of Baltimore, and which it is hereby made the duty of the register to furnish him, all gunpowder stored as aforesaid in said magazine, and by whom stored; and shall, on receiving it, credit the person storing the same, with the quantity thereof, and shall charge the same, or any portion thereof, as it may be removed from said magazine; and shall, in like manner, note all transfers of said gunpowder of which he may be apprised, in the book or books aforesaid; and he shall make returns once in every three months, on oath, to the mayor, of all gunpowder thus stored in said magazine, and of his receipts of money for such storage, and pay over the same to the register; he shall also cause all the powder stored in said magazine to be turned upside down at least once in every month. The said superintendent or keeper shall, before he enters upon the duties of his office, give bond with security, to be approved by the mayor, to the mayor and city council, for the faithful discharge of his duties, in the sum of two thousand dollars.

Keeper's books and accounts regulated.

Monthly returns to mayor and payments.

Bond.

No. 47, s. 2, R. O.

Gunpowder brought into city by land or water regulated

2. All gunpowder brought within the limits of the city by land, or into the port or harbor, in any ship or vessel, other than a ship or vessel of war, shall be stored in the said magazine as aforesaid; if brought by land as aforesaid, within seventeen hours thereafter; if brought into the port or harbor as aforesaid, within forty-eight hours after the ship or other vessel thus bringing it shall have broken bulk; provided, the quantity thus brought in shall exceed the weight of one quarter barrel as above defined; or being of such weight and no more, shall be well secured in tin canisters; nor shall it be lawful for any ship or vessel, other than a ship or vessel of war, bringing gunpowder into the port or harbor

Proviso.

Regulations for vessels landing or receiving gunpowder.

of Baltimors, or having gunpowder on board, in a greater quantity than the weight of the quarter barrel as aforesaid; or being of such weight and no more, not secured as above provided, to approach, lie at anchor, or moor nearer than two hundred yards to any wharf or land within the limits of said city, or discharge, land or deliver gunpowder in a greater quantity or otherwise secured than as aforesaid, at any other place within the said city, than at the wharf of the magazine aforesaid, or such other wharf or place as the mayor and port warden may designate for that purpose; nor shall any gunpowder be delivered or received on board of any ship or other vessel from the magazine aforesaid or elsewhere, in a quantity above the weight of one quarter barrel as aforesaid, or being of such weight and no more, not secured as aforesaid, while the said vessel shall be or remain within two hundred yards of any land or wharf within the limits of the city; and for any violation of any of the provisions of this section, the owner of the gunpowder in question, the person who shall bring it into the city, the person who shall receive or take charge of it when brought in, and the owner, master and consignee of the ship or other vessel concerned in said violation, as the case may be, shall be severally liable to a penalty of twenty dollars for each twenty-five pounds of gunpowder, in whatsoever vessel or vessels it may be contained, which shall be the subject matter of such violation.

Penalty for violating regulations.

3. All gunpowder carried or conveyed to or from any place in or through the city, shall be first well secured with a good bag or bags, or covered with a sail or other cloth under and around it, so as effectually to secure the same from scattering or sifting out, under a penalty of ten dollars for every quarter barrel, or twenty-five pounds weight, carried or conveyed otherwise than is herein provided, to be recovered of the owner of said powder, or the person having charge of the same, or of the person actually conveying or carrying the same, or any of them.

Ibid, s. 3. Gunpowder carried through city regulated.

4. No person or persons shall have or keep in his, her or their possession, within the limits of the city, whether in any building or shed, or in the street, or upon any lot or premises

No. 73, Aug. 28, '60. What quantity of gunpowder to be kept.

whatever, or in any wagon, cart, dray or other carriage, any quantity of gunpowder exceeding fifty pounds in weight, (which shall be well secured in tin canisters or wooden kegs,) under a penalty of twenty-five dollars for every violation of this section, by having above the quantity hereby allowed;

Proviso. provided, that this penalty shall not apply to gunpowder being conveyed and actually in transitu, without stoppage, (except sufficient time for the purpose of delivery,) through the streets of the city of Baltimore, for the purposes of shipment or transportation beyond the city.

No. 16, Apl. 5, '60. 5. Any person or persons keeping gunpowder in their store or warehouse, shall have it kept in a tin canister near

How to be kept. one of the front doors, and a tin sign placed on the outside of the door, marked "gunpowder." Any person or persons failing to comply with the provisions of this section, shall forfeit ten dollars to the use of the city of Baltimore; to be

Penalty. collected as small debts are, before a single justice of the peace, in the name of the mayor and city council of Baltimore.

No. 47, s. 5, R. O. 6. The mayor or any justice of the peace, is hereby authorized, as often as he shall be informed upon oath, of

Duties of mayor and justices of peace. probable cause to suspect any person or persons of concealing or keeping within the said city, any quantity of gunpowder over and above fifty pounds as aforesaid, to issue a search warrant to examine into the truth of such allegation or suspicion, and search any place whatever therein.

Ibid, s. 6. 7. The owner and owners, consignee and consignees

Owners, &c., of ships. master and acting master at the time of any ship or other vessel which shall approach any part of the city, lie at anchor, or moor in the port or harbor of the same, or from which gunpowder shall be discharged, landed or delivered, or which shall deliver or receive any gunpowder in violation of this ordinance, shall each of them be severally liable for

Penalty. the penalties provided by this ordinance.

MANUFACTURE OF OILS.

No. 20, s. 2, Apl. 25, '62. 8. It shall not be lawful for any person or persons to erect,

Manufacture of what oils regulated. build or have put up or use any building or buildings for the

manufacture of camphine, pine, ethereal or coal oil, refined petroleum oil, kerosene or carbon oil, and all oils manufactured from coal, rock or earth oil and petroleum within the limits of the city, without first obtaining the sanction of the mayor and city council; and ten days' notice immediately preceding the application to the mayor and city council shall be given by at least four insertions in two or more of the daily papers of the city, setting forth the purpose of said application, the street, lane, alley or court and square of ground on which the contemplated manufactory is to be erected or put up; and every person or persons violating this section shall be subject to the penalty of not less than twenty dollars nor more than fifty dollars, and the further penalty of twenty dollars for each and every day such manufactory shall remain, to be recovered as other fines are now recoverable; provided that nothing in this section shall apply to manufactories of coal and other oils now erected and in use in said city.[1]

Ten days' notice.

Penalty.

STORAGE OF OILS, &c.

9. It shall not be lawful for any person or persons to keep on storage or for sale, within the limits of the city of Baltimore, any crude rock or earth oils, petroleum, kerosene, naptha and benzone, except as hereinafter provided.

No. 63, s. 1, '62. Storage of what oils unlawful.

10. Crude rock or earth oils, coal oil and petroleum oil may be stored or kept for sale in stores or buildings, other than dwelling houses, in quantities not more than one barrel in any one building, provided it be kept in metallic packages.

Ibid, s. 2. How much may be kept for sale.

11. Manufacturers, refiners or distillers of coal or rock oil, naptha or benzone, may keep or store in their factories such quantities of oil, naptha or benzone as they desire; provided always that the said manufactory is carried on in a brick, stone or fire proof building or buildings not nearer than fifty feet to any other building, and if in a frame building, not nearer than one hundred feet to any other building.

Ibid, s. 3. Distillers of oils, &c.

Proviso.

Fire proof building.

12. Refined petroleum, earth or rock oil, or coal oil or kerosene oil, for illuminating purposes, may be kept on sale in stores, dwelling houses or other buildings.

Ibid, s. 4. Refined petroleum, &c.

[1] See further under art. — Health, *post*.

Ibid, s. 5. Naptha and benzone.

13. Naptha and benzone may be kept on storage or for sale in quantities not to exceed fifteen gallons in any one building, the same to be kept in metallic packages.

Ibid, s. 6, No. 98; Oct. 27, '64. Crude rock, or earth oils, &c.

14. No crude rock or earth oils, petroleum, kerosene, naptha or benzone shall be placed in any lot or yard and remain therein over twenty-four hours, without first obtaining the consent of the mayor, and all the property holders within two hundred feet; provided that this section shall not apply to manufacturers, refiners or distillers. It shall not be lawful for any person or persons to keep stored within the limits of the city of Baltimore, more than one hundred barrels of refined rock, earth or coal oil in any one building at one time, without having obtained the permission of the mayor and city council.

Proviso.

Refined rock, coal oil, &c.

Ibid, s. 7; No. 98, Oct. 27, '64. Penalties.

15. Any person, persons or corporation, who shall violate any of the provisions of this ordinance shall forfeit and pay a fine of fifty dollars for each and every offence, and ten dollars for each and every day thereafter the said violation continues, to be recovered as other fines and forfeitures are now recoverable, one half to the informer, the other half to be returned to the register of the city.

SHAVINGS.

No. 35, s. 12, R. O. Shavings to be deposited and burnt.

16. It shall not be lawful for any person or persons to deposit in any street, lane or alley, or any vacant lot, except at the distance of at least three hundred feet from any building, or lumber yard, any shavings, chips or other combustible matter; and it shall be the duty of every person or persons, who shall remove such combustible matter to such place as is hereby permitted, to burn them or cause them to be burnt, before five o'clock in the evening of the day on which they are so deposited; and every person offending against the provisions of this section shall forfeit and pay a sum not exceeding twenty dollars.

Penalty.

ARTICLE XXII.

HARBOR, DOCKS AND WHARVES.

STATUTES.

HARBOR.

1. Corporation to provide for preservation of navigation in basin and Patapsco.
2. Throwing obstructions in river, &c.
3. Penalty.
4. Power to regulate mooring of vessels.
5. Power to survey harbor and rivers and erect buoys.
6. To remove obstructions from harbor: to levy tonnage.
7. To pass ordinances to protect wharves and harbor.
8. Fines.
9. Limits of wharves.
10. Penalty.
11. Pay of harbor master from vessels.
12. Mode of enforcing.
13. Tonnage duty on lumber.
14. Power to appoint harbor masters, port wardens, &c.

DOCKS.

15. Corporation to have control of docks.
16. Entitled to land made by improvements: proviso.
17. Obstructing passage in Smith's dock, &c.: penalties.
18. What, term vessel to include.
19. Vacant place: penalty.
20. Vessel obstructing passage, to make room: penalty.
21. Penalties, how recovered.

WHARFINGER AND WHARVES.

22. Appointment of wharfinger.
23. Bond.
24. Where bond to be filed.
25. Duty of wharfinger: to take charge of wharves: to collect wharfage.
26. His powers over wharves, vessels, &c.: fines.
27. To deposit receipts, and where and how: compensation.
28. To account to treasurer, and when.
29. To preserve wharves from injury.
30. How wharfage to be collected.
31. What wharfage to be collected.
32. Wood inspector to report to wharfinger wood landed on wharves: to collect wharfage on, and what.
33. Salary of wharfinger.
34. Pratt street wharf, a public wharf.
35. What wharf warfinger may rent: proviso.
36. Wharfage not chargeable on vessels at tobacco warehouse, with tobacco: proviso.
37. Boat with tobacco to have preference
38. Wood and lumber, where not to be landed.
39. Penalty.
40. How recovered.
41. Duty of justice of the peace.
42. Power of corporation to regulate wharves.
43. Rate of wharfage.

HARBOR AND RIVER RELIEF BOARD.

44. Incorporated.
45. Duty of board: vessel to keep harbor free from ice.
46. Superintendent and officers, &c. of vessel: how vessel to be employed: proviso.
47. Annual statements of receipts and expenditures: reports to legislature and mayor and council: what to be paid into treasury, &c.
48. Requisitions for money upon comptroller, &c.: use of city wharf property.
49. Powers of board.
50. Members to receive no salary, &c.: oath: oath to be recorded: fees: evidence.

ORDINANCES.

HARBOR AND HARBOR MASTERS.

1. Harbor masters: their duties.
2. Rates of wharfage: lumber and fire wood.
3. Notice to remove lumber, &c.: penalty.
4. Rates to be charged when lumber sixteen feet from wharf front.
5. Persons landing lumber, &c.
6. Harbor master or deputy not to deal in wood.
7. Tonnage duty.
8. Penalty for refusing to exhibit license of vessel.
9. Penalty for obstructing ingress and egress of vessels.
10. Penalty for neglecting to pay wharfage.
11. Propellers, barges and canal boats to pay tonnage.
12. Monthly returns to register: compensation.
13. Vessels lying at the public wharves.
14. Yards, &c. regulated.
15. Wharfage, how collected.
16. Harbor masters' books.
17. Fires on board vessels regulated.
18. Limits in which vessels may not remain at anchor.
19. Vessels not to enter public docks without permission: penalty.
20. Public wharf on Pratt street: proviso.
21. Retailing goods prohibited on said wharf.
22. Retailing goods at public wharves regulated.
23. Certain vessels not to enter dock without permission.
24. Vessels not to lay in second tier without permission.
25. Vessels to be pumped out once a week.
26. Notice of regulations to be served on masters of vessels.
27. Vessels not to be hove down, or wharves obstructed without permission
28. Ballast, &c. not to be put on board without permission.
29. Nor loaded without permission.
30. Vessels in ballast to haul to a wharf: proviso.

WHARVES.

31. Wharfage: charge upon vessels: charge upon fire wood: dockage to be paid by certain vessels.
32. Further rates of wharfage: two or more vessels belonging to the same persons.
33. Rates on goods landed on or shipped from public wharves.
34. Harbor masters to make returns.
35. Vessels which are chargeable with city wharfage.
36. Master or owner responsible.
37. Goods placed on the public wharves, when to be removed: articles excepted.
38. Firewood, lumber, &c. on the public wharves regulated.
39. Firewood and lumber not to be landed on Bowly's wharf without permission.
40. Rates of wharfage on lumber.
41. Space vessels may occupy: scows regulated: proviso.
42. Pratt and Light street wharves regulated.
43. Wood or lumber not to be landed on McElderry's or Dugan's wharf.
44. Not more than one-third to be occupied: penalty.
45. Vessels not to remain more than four days: penalty.
46. Light street wharf regulated.
47. Goods on public wharves regulated.
48. Wharves reserved for tobacco warehouses.
49. When fishermen to have exclusive use of wharf.
50. Goods belonging to unknown persons to be removed.
51. When and how said goods may be sold.
52. Nuisances to be removed.

53. Carts, &c., regulated.
54. Harbor masters to collect penalties: to account monthly and pay to register: booths, &c. regulated.
55. Goods in transition not to be charged wharfage for less than one day.

PORT WARDEN.

56. Appointment: his bond.
57. Power to employ and discharge workmen: money paid to register: quarterly return: to remove sunken vessels: fine: what register to pay: money, how to be recovered.
58. Clerk to keep accounts: bond: salary.
59. Encroachments on harbor.
60. Mud machine: to clean private docks.
61. Deepening and cleansing navigation: fees:
62. Channel to be deepened: ten feet of water.
63. To extend channel: eighteen feet of water.
64. Channel widened fifty feet from Light street: ten feet of water.
65. To select place for deposit of sediment.
66. To dispose of sediment.
67. Repair of wharves: private wharves to be examined: notice: penalty for neglect.
68. Repairs of stone: penalty.
69. Eight feet of water: back basin.
70. City dock: eight feet of water.
71. Ballast, dirt, oyster shells thrown in harbor: penalty.
72. Dirt, mud, or gravel: penalty.
73. Fish, crabs, gas tar, offal, &c.: penalties.
74. Gas light company to discharge gas tar or dregs: penalty.
75. Soundings to be made: report to city council: amount required.
76. Port warden to have exclusive control: register to pay.
77. Salary of port warden: not to be engaged in any other business.
78. Engineers of steam dredges.
79. Port warden to return to comptroller for collection bills for private work done by dredges.

DEEPENING CHANNEL.

80. Commissioners appointed: mayor to preside at board.
81. Board to receive and disburse moneys: acts of assembly: report to mayor and city council.
82. Mayor to fill vacancies.
83. Commissioners not to be interested in contracts.

DRIFTING OF ARKS AND LUMBER.

84. Arks, &c., not to drift in harbor: penalty: proviso.
85. Duty of harbor masters.
86. Penalty, &c., how recovered.
87. Penalty for setting arks, &c., adrift.

STEAMBOATS.

88. Speed regulated: penalty.

KEEPER OF DRAWBRIDGE.

89. Appointment: his duties.
90. Salary.
91. Penalty for opening bridge without consent of keeper.

PORT WARDEN'S LINE.

92. Penalty for extending improvements beyond port warden's line.
93. Line on west side of basin.
94. Port warden's line established.
95. Line for cove near Harris' creek: proviso: further proviso.
96. Line for Canton Company.
97. Owners may fill out to line.

98. Owners on line to give city equivalent for water rights.
99. Wharves so built to be subject to port warden's inspection.
100. Canton company's improvements assented to.
101. Port warden's line confirmed.
102. Amendment.
103. Line from Locust Point to Fort McHenry.
104. From Locust Point to Cross street.
105. Extension of wharves in certain parts of harbor prohibited.
106. Streets, &c. to be extended.
107. What wharves declared city wharves.
108. Change of port warden's line: at Jones' Falls: Wills street: Philpot street; Chase's pier: Kerr's wharf: Mohler's wharf: Henderson's wharf.
109. Corner's and Mohler's wharves.
110. Outlet of Jones' Falls.
111. South side of basin.
112. How lines to be adjusted.
113. Platforms and wharves, how to be built.
114. Proprietors of wharves at Locust Point: when change of line may be made.
115. Other locations.
116. Extension of port warden's line at Locust Point.
117. Port warden's line changed.
118. Provision in regard to extension of port warden's line.
119. Port warden's line: boundaries: provisions.
120. Change in port warden's line: boundaries designated.
121. Change in port warden's line.
122. Port warden's line extended: limits.
123. Ends of streets.
124. Water to be kept at proper depth.
125. Change of port warden's line at county wharf.
126. Port warden's line at Locust Point.
127. Depth of water.
128. Port warden's line at Locust Point changed: proviso: conditions: deed to city: bed of Hauber street as a public highway.
129. Erection of private wharves: proviso.
130. Race, Clarkson, Hanover, Goodman and Charles streets, continued.
131. Time wharves to be erected in.
132. Port warden's line extended.
133. Boundaries designated: proviso.
134. Wharves, how to be erected
135. Proviso.
136. Port warden's line extended: boundaries: proviso.
137. Conditions on which line extended.
138. Change in port warden's line.
139. Piers.
140. Port warden's line changed and extended at Canton.
141. Port warden's line changed and extended at Canton.
142. Port warden's line re-established and extended at Locust Point.
143. Owners of property fronting on Light street wharf to erect piers.
144. Permission to erect piers on Light street wharf.
145. How to be constructed.
146. What to be removed.
147. Port warden's line changed.
148. Wharf at Lancaster street.
149. Pier at Patterson's wharf.
150. Pier at Locust Point.
151. Platform pier: fifteen feet of water.

BATHING.

152. Within certain limits regulated: penalty.

STATUTES.

HARBOR.

1. The mayor and city council have power to provide for the preservation of the navigation of the basin and Patapsco river, within the limits of the city, and within four miles thereof, and for cleaning and deepening the basin and docks, and for regulating the stationing, anchoring and moving of vessels.

P. L. L., art. 4, sec. 793. Corporation to provide for preservation of navigation in basin and Patapsco.

2. No person, his servant or agent, shall put or throw into the Patapsco river, or any of the navigable branches thereof, any earth, sand or dirt, or lay out on the beach or shore of said river below common high water mark, any earth, sand or dirt, unless such earth, sand or dirt be first well secured by stone walls, dovetailed log pens or otherwise, so that no part thereof may wash into said river or the navigable branches thereof.

Ibid, sec. 794. Throwing obstructions in river, &c.

3. Any person offending against the provisions of the last preceding section, shall forfeit and pay the sum of fifteen dollars, to be recovered before a justice of the peace, as in case of small debts, one-half to the State and the other half to the person who shall sue for the same.

Ibid, sec. 795. Penalty.

4. The mayor and city council shall have full power and authority to make such rules, regulations and ordinances from time to time, respecting the mooring and safe stationing of all vessels arriving in said port, as they shall deem necessary.

Ibid, sec. 796. Power to regulate mooring of vessels.

5. The mayor and city council may make an exact survey and chart of the basin, harbor and river Patapsco, and may ascertain the depth and course of the channel of the same, and if necessary affix buoys or water marks for facilitating and rendering more safe the navigation thereof.

Ibid, sec. 263. Power to survey harbor and river, and erect buoys.

6. They may cause the basin and harbor, or such parts thereof as they may deem proper, to be cleansed, scoured, cleared and ballasted, and all obstructions and annoyances in and upon the same, whether from vessels sunk or from any other cause, to be removed, and may levy a tonnage duty of

Ibid, sec. 264. To remove obstructions from harbor.

To levy tonnage

two cents per ton on every vessel entering or clearing at said port.

Ibid, sec. 264. To pass ordinances to protect wharves and harbor.

7. They may pass such ordinances as they may deem proper respecting wharves and wharfage, and the keeping of wharves in repair so as to prevent their injuring the harbor or basin, and for preventing vessels from casting filth or ballast into the same, and to prevent filth, earth or soil from being thrown from the wharves or land into the said basin or harbor so as to fill up the same or obstruct the navigation thereof.

Ibid, sec. 266. Fines.

8. They may impose fines for the breach of any ordinance passed under the preceding section not exceeding one hundred and fifty dollars.

Ibid, sec. 267. Limits of wharves.

9. No wharf shall be run out, made, altered, enlarged or extended so as to divert the course of the channel, obstruct the harbor or basin, or to the injury of the same; and no person shall make, alter or extend any wharf without laying before the mayor and city council, or some officer by them for that purpose appointed, a plan of said wharf, and obtaining the consent of the mayor and city council to carry the same into effect.

Ibid, sec. 268. Penalty.

10. If any person shall violate the provisions of the last preceding section, the mayor and city council may recover, by warrant before a justice of the peace, a sum not exceeding two hundred and fifty dollars, and may forthwith cause the said wharf to be demolished.

Ibid, sec. 269. Pay of harbor master from vessels.

11. The harbor master of the port of Baltimore may demand from the captain or commander of every foreign vessel coming into said port for the purpose of trade and commerce, the sum of five dollars, as an additional compensation for his care and diligence in the regulation of the harbor, and providing a proper station for said vessel.

Ibid, sec. 270. Mode of enforcing.

12. He may, in case of delay or refusal to make such payment, sue for and recover the same before a justice of the peace, as small debts are recovered.

13. The mayor and city council shall have full power and authority to assess, levy and collect on every thousand feet of lumber floating into or arriving at the port of Baltimore and washed therein, a sum not exceeding thirty cents per thousand feet board measure, and not less than fifteen cents per thousand feet board measure, (excepting all timber floating into or arriving at said port for the purpose of being sawed in said city, or its vicinity, and all timber to be used for masts, spars and wharfing timber,) to be appropriated and applied by the mayor and city council to carrying into effect the rules and regulations which they may from time to time make respecting the said harbor and port. Ibid, sec. 271. Tonnage duty on lumber.

14. The mayor and city council may appoint as many harbor masters, port wardens, or other officers or agents as may be necessary to execute the powers conferred by the nine preceding sections. Ibid, sec. 272. Power to appoint harbor masters, port wardens, &c.

DOCKS.

15. The mayor and city council shall have power to pass ordinances for cleaning and deepening the basin and docks, and for regulating the station, anchoring and mooring of vessels. P. L. L., art. 4, sec. 192. Corporation to have control of docks.

16. The mayor and city council are vested with the right and title to any land made or to be made by them out of the water in making and completing the improvements of the city dock, according to the plan heretofore adopted by them; provided, that nothing contained in this section shall be construed to interfere with the vested rights of individuals. Entitled to land made by improvements. Proviso.

17. If any vessel shall be lying in Smith's dock, Frederick street dock, or any other private dock in said city, or the entrance thereof, so as to obstruct any vessel which shall be coming into the same, or moving from one place to another therein, or going out of the same, the vessel so obstructing shall be removed to such place as shall be necessary to give room to the passing vessel under penalty of five dollars for refusal so to remove, and 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 to 1866, c. 35. Obstructing passage in Smith's dock, &c. Penalty.

the master or owner of the passing vessel, unless in cases where some unavoidable casualty or accident may make it impracticable to remove 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 shall forfeit five dollars for such obstruction, and at the rate of five dollars per hour during the continuance of such obstruction, to be recovered by the master or owner of the passing vessel aforesaid.

Penalty.

P. L. L., art. 4, sec. 195. What term vessel to include.

18. The term vessel in the preceding section shall include boats, scows and arks.

1866, c. 35. Vacant place. Penalty.

19. No vessel shall enter Smith's dock, Union dock or Frederick street dock, without first ascertaining whether there is a vacant place at the wharf where she can lie, under a penalty of five dollars.

1866, c. 35. Vessels obstructing passage to make room. Penalty.

20. All vessels which shall be found obstructing the passage of said docks, shall remove when requested by the master or agent of the passing vessel in such manner as will afford a free and unobstructed passage to such passing vessel, under a penalty of five dollars for refusal to remove, and five dollars per hour for each hour they shall obstruct such passage after due notice shall have been given to the master, owner or person in charge of such obstructing vessel.

P. L. L., art. 4. sec. 198. Penalties, how recovered.

21. The penalties imposed by the three preceding sections may be recovered as small debts before any justice of the peace for the city of Baltimore from the master, owner or person in charge of the obstructing vessel, for the use of the master, owner or person in charge of the vessel obstructed, but such penalty shall not be recoverable where the obstruction proceeds from any unavoidable cause.

WHARFINGER AND WHARVES.

P. G. L., art. 97, sec. 1. Appointment of wharfinger.

22. The governor, by and with the consent of the Senate, shall biennially appoint one or more persons of integrity as wharfingers in the city of Baltimore.

23. The person so appointed shall, before proceeding to act, enter into bond to the State of Maryland, with two securities to be approved by the governor, in the penalty of five thousand dollars, conditioned for the faithful and impartial discharge of the duties of State wharfinger in the city of Baltimore, according to law. Ibid, sec. 2. Bond.

24. The bond executed by said wharfinger shall be filed by the Secretary of State among the papers and documents in his charge, and a copy thereof certified under his hand and seal shall be evidence of the execution and approval thereof, and shall be good evidence in any court of law or equity in this State. Ibid, sec. 3. Where bond to be filed.

25. It shall be the duty of the State wharfinger so appointed to take charge of the wharves which he may be directed and authorized to take charge of belonging to, or rented by the State within said city, and to charge and collect from all vessels and persons resorting to or using any of said wharves that he may have charge of, the rates of wharfage as are now authorized by any law or ordinance within said city, or may hereafter be established by the mayor and city council of Baltimore. Ibid. sec. 4. Duties of wharfinger. To take charge of wharves. To collect wharfage.

26. He shall be vested with the same powers in regard to the care of said wharves or such part thereof as may be under his care and direction and the regulating of vessels and persons resorting to and using them, as any harbor master or other officer within the city of Baltimore; and any of said persons who shall refuse or neglect to obey his orders, given in the execution of his said powers, shall pay and forfeit to this State the same fine that in the like case a person who should refuse or neglect to obey the orders of any harbor master within the said city, would by virtue of the ordinances of the city of Baltimore, pay and forfeit to the said city. He shall also be vested with the same powers in regard to the collection of wharfage and of fines and penalties as any harbor master within the said city. 1865, c. 12. His powers over wharves, vessels, &c. Fines.

P. G. L., art. 97, sec. 6. To deposit receipts, and where and how. Compensation.

27. He shall deposit monthly, in such banks as the treasurer shall designate, to the credit of the treasurer, four-fifth part of the amount of all moneys which he shall collect from time to time for wharfage, retaining one-fifth as a compensation for collecting the same.

Ibid, sec. 7. To account to treasurer, and when.

28. He shall, on the first day of May and November in each year, render upon oath to the treasurer, an account of all money collected by him for wharfage during the preceding half year.

Ibid, sec. 8. To preserve wharves from injury.

29. He shall take care of, and preserve from injury, all wharves placed under his direction belonging to, or rented by, or for the State, and shall have all necessary control of the same for that purpose.

Ibid, sec. 9. How wharfage to be collected.

30. He may collect all wharfage accruing to the State in the name of the State of Maryland, before any justice of the peace of said city.

Ibid, sec. 10. What wharfage to collect.

31. He shall demand and collect for wharfage on all vessels lying at or opposite to any of the public wharves in said city, a tonnage duty of one cent per ton burthen for the first tier, two-thirds of a cent per ton for the second tier, and half a cent per ton for all vessels beyond the second tier, for each day or part of a day they shall so lie or remain; and if any vessel laden with wood shall so lie without landing any part of her cargo, no duty other than the tonnage duty above specified shall in that case be demanded by the State wharfinger.

Ibid, sec. 11. Wood inspector to report to wharfinger wood landed on wharves. To collect wharfage on, and what.

32. Whenever wood shall be landed on the wharves belonging to the State, the wood inspector measuring the same shall forthwith report to the State wharfinger the number of cords so landed, with the name of the vessel from which the same was landed.[1] Whenever lumber shall be landed on said wharves, the inspector of lumber shall report to the State wharfinger the quantity thereof, and he shall exact and collect for wharfage thereon ten cents for every thousand feet superficial.

[1] See Inspections, and Licenses, *post*.

33. He shall, in addition to the compensation allowed him by section twenty-seven, be allowed an annual salary of two hundred and fifty dollars. Ibid, sec. 12. Salary of wharfinger.

34. The wharf forming the south side of Pratt street shall be deemed a public wharf, subject to the regulations of the corporation of Baltimore relative to public wharves, and shall be under the charge of the State wharfinger, and subject to the same regulations as other State wharves in said city. Ibid, sec. 13. Pratt street wharf, or public wharf.

35. The State wharfinger may rent any part of the wharf fronting the south end of the State tobacco warehouse, lying between Dugan's and O'Donnell's wharves; provided, the said renting will not in his opinion interfere with and delay the landing of tobacco at said warehouse, and that no contract for said renting shall be for a longer time than one year, and shall be approved by the governor. Ibid, sec. 14. What wharf wharfinger may rent. Proviso.

36. No vessel shall be charged any wharfage whilst landing any tobacco at the State tobacco warehouse mentioned in the preceding section for inspection; provided, that if any thing other than tobacco is landed, or any cargo is taken on board, wharfage shall be charged; and no vessel shall lie at said wharf for a longer time than the tobacco inspectors shall deem reasonable. Ibid, sec. 15 Wharfage not chargeable on vessels at tobacco warehouse with tobacco. Proviso.

37. The boats having on board tobacco for the inspection houses aforesaid, shall have a preference given to them over all other boats. Ibid, sec. 16. Boats with tobacco to have preference.

38. No person shall land any wood or lumber on Pratt street wharf between Light street and Franklin lane, and the mayor of the city of Baltimore shall enforce the provisions of this section. Ibid, sec. 17. Wood and lumber, where not to be landed.

39. If any person shall violate the provisions of the last preceding section, he shall be subject to a fine of twenty dollars, one half to the informer and the other half to the State. Ibid, sec. 18. Penalty.

40. The said fine may be sued for and recovered in the name of the State before any justice of the peace for said city, in the same manner as small debts. Ibid, sec. 19. How recovered.

Ibid, sec. 20. Duty of justice of the peace.

41. It shall be the duty of every justice of the peace for said city to make an annual return to the treasurer of all fines imposed under the provisions of the aforegoing section, and to receive and pay over the same at the time of making said return.

P. L. L., Art. 4, sec. 944. Power of corporation to regulate wharves.

42. The mayor and city council shall not collect or impose any tax, duty, toll or wharfage upon any goods, wares or merchandise, or other articles for passing the same over any of the public wharves within the said city, but the said corporation may regulate by ordinance the time during which any goods, wares, merchandise or other articles may remain on said public wharves, or the time which the vessels, boats or scows taking in or discharging such goods, wares or merchandise, shall remain at said wharves.

Ibid, sec. 945. Rate of wharfage.

43. The mayor and city council may regulate, establish and collect, for the use of the city, such rate of wharfage as they may think reasonable from all vessels resorting to or laying at, landing, depositing or transporting goods or articles other than the productions of this State on any wharf belonging to the city, or any public wharf in the said city other than wharves belonging to or rented by the State, and that part of Pratt street wharf reserved for the use of the State.[1]

HARBOR AND RIVER RELIEF BOARD.

1867, c. 243, s. 1. Incorporated.

44. The president of the board of trade of the city of Baltimore, and the president of the corn and flour exchange of the city of Baltimore, for the time being, together with one other person, to be from time to time delegated therefor, by a ma-

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[1] The collection of wharfage upon the public wharves is a fit subject of legislation, and by 1827, c. 162, s. 4, (sec. 43, above,) the city of Baltimore may charge, collect and recover by suit such wharfage. *City of Balt.* v. *White*, 2 Gill, 444. As to wharves at the port of Baltimore, &c., see *Harrison* v. *Sterrett*, 4 H. & McH., 540; *Giraud's lessee* v. *Hughes*, 1 G. & J., 249; *Dugan* v. *Mayor, &c. of Balt*, 5 G. & J., 357; *Wharf case*, 3 Bl., 361; *Balt.* v. *McKim*, *ibid*, 453; *Wilson's lessee* v. *Inloes*, 11 G. & J., 351, and 1 Gill, 430; *Hammond's lessee* v. *Inloes*, 4 Md, 138, and *Patterson* v. *Gelston*, 23 Md. 433.

jority of the presidents of the several marine insurance companies, incorporated by or under the laws of the State of Maryland, and having their offices in the city of Baltimore, are hereby created and constituted a board of commissioners to be styled "the Harbor and River Relief Board of Baltimore."

Ibid, sec. 2.
Duty of board. Vessel to keep harbor free from ice.

45. It shall be the duty of the said board, and they are hereby authorized and directed to contract for and cause to be constructed in the city of Baltimore, on the most advantageous terms according to their judgment, a first class steam vessel of such model and with such machinery and equipment as they may deem most suitable for the purpose of keeping open and free from ice, the harbor of the city of Baltimore and the access thereto in all weather and under all circumstances.

Ibid, sec. 3.
Superintendent and officers, &c. of vessel.

46. The said board are further authorized and directed to appoint a suitable superintendent of the construction and management of the said steamer, as well as suitable officers and crew for her navigation, at such reasonable salaries as the said board may determine, subject to removal, in the discretion of said board, and also to make, and cause to be obeyed and executed all such rules and regulations as they may consider necessary and proper for the control and direction of the said steamer and all persons connected with her in and about the service aforesaid. And the said board are further required to cause the said steamer to be employed, so far as they may deem prudent and proper, during the season when the said harbor may be unobstructed, in towing vessels and aiding and promoting the ingress and egress of the same to and from the said harbor, and in and upon the Chesapeake bay and Patapsco river, at such moderate rates as they may establish, regard being had to the interests and facilities of commerce; provided, always, that said steamer shall not be so employed in anywise during the season when her services as an icebreaker shall be needed, except in the case of vessels in distress bound to or from said city, in which service she

How vessel to be employed.

Proviso.

may be employed by the board at any time when her services, if any, shall be compensated only as in the nature of towage, and not salvage services.

Ibid, sec. 4. Annual statements of receipts and expenditures. Reports to legislature and mayor and council.

47. A majority of said board shall constitute a quorum, and determine the action of the same; they shall report their proceedings to the general assembly and the mayor and city council of Baltimore, at the regular sessions thereof, and shall render an annual account of their receipts and disbursements to the accounting officers of the State and city respectively, as soon as may be after the first of January in each and every year, and pay over into the respective treasuries of the State and city, one-half to each, of all the surplus from appropriations and earnings which may be in their hands and may not be required for the efficient discharge of the duties by this act imposed upon them in their judgment.

What to be paid into treasury, &c.

Ibid, sec. 5. Requisitions for money upon comptroller of State and city register.

48. The said board are authorized and required, from time to time, as may be necessary, to make requisition upon the comptroller of the treasury of the State and the register of the city of Baltimore, respectively, for such amounts, not exceeding one hundred and fifty thousand dollars, in all, and to be paid by the State and city equally, as the construction of the said steamer may require, and to be expended in and about the same, and in like manner to make requisitions for the annual amount of ten thousand dollars, to be paid by the city as aforesaid, or so much thereof as may be required for the efficient navigation and use of the said steamer for the purposes aforesaid in each and every year; and the comptroller is hereby authorized and directed, upon receiving such requisitions from the said board, from time to time, in conformity herewith, to issue his warrant to the treasurer for the payment of the moneys so required, and hereby appropriated on the part of the State; and the register of the city of Baltimore is hereby authorized and required to answer and pay the said requisitions, when made in conformity herewith, from time to time, for which end the mayor and city council of Baltimore are hereby required and authorized to make provision for the same by proper assess-

ment and levy, from time to time, in the usual way.[1] If at any time the said board shall deem it necessary or proper to use any of the wharf property of the city belonging to Baltimore for the purposes of the said steamer and her operations, they shall be entitled to the use of the same free of all charge.

Use of city wharf property.

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[1] The register was directed by Res. No. 121, April 8, '68, and No. 146, April 24, '68, to pay all sums within above provisions, on requisition of the commission.

Ord. No. 40, June 10, 1867, recites that, by an act passed at January session of the General Assembly, 1867, entitled, an act to create a board of commissioners to keep open the harbor of Baltimore, and the access thereto from obstruction by ice, and for river and harbor relief, it is made the duty of the comptroller of the treasury of the State and the register of the city, to pay over to the board, authorized and constituted by said act, such amount, not to exceed the sum of one hundred and fifty thousand dollars in all, said sum to be paid by the State and city equally, as the same may be required, for the purpose of constructing in the city of Baltimore a first-class steam vessel, for the purpose of keeping open and free from ice the harbor of said city, and the access thereto, in all weather and under all circumstances; and that the board authorized by said act has been organized by the selection of A. Schumacher, Israel M. Parr and Francis W. Wilson, as commissioners under said act, who have made an application to the mayor and city council for an appropriation to carry into effect said act of assembly; then, it enacts that the sum of seventy-five thousand dollars be appropriated, and placed in the hands of the register of the city, to be by him set apart as a special fund for the purpose of meeting such requisitions as may be made upon him from time to time by the board of commissioners authorized to act under said law, in the construction of the steam ice boat in said act mentioned; provided, before the city register shall pay the said board of commissioners, or to their order, any part or portion of the money hereby appropriated, he shall first be satisfied, by the written certificate of said board, that an amount equal to the amount required at the hands of said register has already been paid to said board on the part of the State of Maryland, by the treasurer, or other proper officer of the State, as provided in said law, it being intended that the city register shall in all cases be satisfied that the treasurer of the State has paid to said board an amount equal to the demands made on the register, before he shall be authortzed to pay to said board any part or portion of this appropriation. And that in order to meet the disbursements required by this ordinance, the commissioners of finance be authorized and directed to issue from time to time, in such sums as the register may require, seventy-five thousand dollars, or so much thereof as may be necessary, of the six per cent. stock of the city of Baltimore, interest payable quarterly on the first days of January, April, July and October, in each and every year, and redeemable at the pleasure of the mayor and city council of Baltimore, after the first day of July, in the year eighteen hundred and ninety; and should said stock command a premium, the amount received for premium shall be paid over by the register to the commissioners of finance, to be added to the general sinking fund for the redemption of the city debt.

Ibid, sec. 6. Powers of board.

49. This act shall not fail or cease to have operation and effect because of any failure or neglect on the part of the presidents of the marine insurance companies of the city of Baltimore aforesaid to delegate or appoint a person to act as a member of the said board, as in section forty-four hereof provided; and in case the said presidents shall fail or neglect to make such delegation or appointment within thirty days from the passage of this act, the remaining members of the said board shall be clothed with and entitled to exercise the powers hereby on said board conferred until such appointment or delegation shall have been made, and if after the making of such appointment or delegation, there should be a failure or neglect to re-appoint at any time thereafter, the person then a member of said board, by reason of such appointment or delegation, shall hold until his successor shall have been appointed, and in case of his death, resignation, refusal or failure to act, or removal from the State, the said remaining members of the board shall constitute and act as said board until some person shall have been appointed, as aforesaid, in his stead, a majority of said board to control, as hereinbefore provided.

Ibid, sec. 7. Members to receive no salary, &c.

50. No member of the said board shall have or receive any salary or compensation, directly or indirectly, for his services as such, or be interested in any contract made by or under said board in any way, and before acting under the provisions hereof, each and every member of the said board, shall make and sign an oath before some person duly authorized by law to administer oaths and affirmations, that he will in no case and under no pretext, appoint or remove any person under the said board, or give to or take from any person whatsoever any contract or advantage under the same, for or on account of the political opinions of such person, or for any other cause or reason than the fitness or unfitness of such person so appointed or removed, or so having or receiving such contract or advantage to discharge or perform the duty connected therewith, or the fidelity of the said person in discharging or performing the same, said oath duly

Oath.

subscribed shall be recorded in the office of the clerk of the Superior Court of the city of Baltimore, who shall be entitled to the usual fees for recording the same, and whose certificate thereof, under his seal, shall be due evidence thereof at law and in equity.

Oath to be recorded.
Fees.
Evidence.

ORDINANCES.

HARBOR AND HARBOR MASTERS.

1. There shall be appointed, annually, as other city officers are, five harbor masters, the first of whom shall perform the duties appertaining to the office on the east side of Jones' falls; the second on the west side of Jones' falls, including Block street to the drawbridge, extending to Commerce street dock, inclusive; the third from Commerce street dock west, to the east side of Bowly street; the fourth from the east side of Bowly street to Light street, including Pratt street wharf, and all wharves on the south or west side of the basin, on which the city has authority to collect wharfage; and a fifth, whose particular duty it shall be to collect tonnage on vessels and wharfage, merchandise, &c., on all that part of the city wharf property known as the city dock and Jones' falls, the same lying inside the drawbridge.

No. 23, s. 1, R. O.; No. 18, s. 1, Feb. 18, '59.
Harbor masters
Their duties.

2. The rates of wharfage shall be the same as provided in this article, and upon lumber, firewood, &c., they shall be as follows within the limits above prescribed for the said last mentioned harbor master. On lumber and timber one cent per thousand feet for each and every day the same shall remain on the wharf; shingles one-half of a cent per thousand for each and every day; laths one-fourth of a cent per thousand for each and every day; firewood one cent per cord for each and every day.

No. 18, s. 2, Feb. 18, '59; No. 58, s. 1, '66.
Rates of wharfage.
Lumber and firewood.

3. Whenever the said last mentioned harbor master shall require the owner or agent of any lumber, timber, shingles, laths, or fire wood to remove the same, he shall give five days notice to remove said lumber, &c., and if the same is not removed within the time specified, the owner, consignee, or agent shall be subject to the fines imposed by this article.

Ibid, s. 3.
Notice to remove lumber, &c.
Penalty.

Ibid, s. 4. Rates to be charged when landed sixteen feet from wharf front.

4. The rates charged, named above, shall be charged on all articles occupying the front of the wharf, and for all lumber, firewood, shingles and laths, landed sixteen feet or more from the front of the wharf, one-half of the above rates shall be charged and collected.

No. 36, Mar. 23, '59. Landing lumber

5. All persons landing lumber and firewood on the city dock or Jones' falls, shall use and occupy such parts of said wharf as the harbor master last above mentioned may direct.

No. 23, s. 2, R. O. Harbor master or deputy not to deal in firewood.

6. It shall not be lawful for any harbor master or his deputy to be directly or indirectly concerned or engaged in selling firewood, or purchasing it for sale, under a penalty of fifty dollars for each offence.

Ibid, s. 3. Tonnage duty.

7. A tonnage duty of two cents per ton shall be and is hereby assessed and levied upon every vessel of sixty or more tons arriving at the port of Baltimore; provided, nevertheless that the sum of money assessed and levied by this section, shall be collected from each vessel but once a month, although she may arrive more frequently, and the harbor masters are hereby authorized to collect the same.

Proviso.

Ibid, s. 4. Penalty for refusing to exhibit license of vessel.

8. It shall be the duty of the captain or commander of any vessel arriving at the port of Baltimore, and subject to the payment of tonnage duties to exhibit to the harbor master, at his request, the enrolment or license of said vessel, in order to ascertain the proper tonnage thereof; and if the captain or commander of such vessel shall refuse to comply with the request of the harbor master, such captain or commander shall forfeit and pay the sum of twenty dollars, and the like sum of twenty dollars, for every time such vessel may arrive at the port of Baltimore, until the request of the harbor master be complied with.

Ibid, s. 5. Penalty for obstructing ingress and egress of vessels.

9. The captain or commander of any sailing vessel, or vessel propelled by steam, lying at any wharf, adjoining any public dock, who shall place or cause to be placed, the vessel under his command, so as to obstruct the free ingress or egress of vessels in and out of such public dock, shall forfeit and pay the sum of twenty dollars, and the further sum of ten

dollars for each and every hour such obstruction may continue, after notice to remove such vessel has been given to such captain or commander by the harbor master.

Ibid, s. 6. Penalty for neglecting to pay wharfage.

10. It shall not be lawful for any vessel landing or receiving cargo at any of the wharves within the limits of the city, which is required to pay wharfage on cargo or vessel to the harbor masters of the city of Baltimore, to leave the wharf where said vessel receives or discharges her cargo, without furnishing said harbor master, upon application, with his manifest or bills of lading of cargo, and paying the wharfage on the same, together with wharfage and port charges on the vessel, under a penalty of twenty dollars, to be collected as other small debts are collected, from the captain, commander, owner or consignees of said vessel so offending.

Ibid, s. 7. Propellers, barges and canal boats to pay tonnage.

11. All propellers, barges and canal boats of sixty tons or more, in any way engaged in carrying freight, are subject to, and by this ordinance required to pay tonnage duties and wharfage, as other vessels are, and the harbor masters are hereby authorized to collect the same.

Ibid, s. 8; No. 17, Mar. 19, '64; No. 18, Feb. 18, '59. Monthly returns to register.

Harbor masters compensation.

12. It shall be the duty of all the harbor masters to make monthly returns, on oath, and pay all money collected by them to the register, who shall be authorized and directed to pay to the several harbor masters, as a compensation for their services, twenty per cent. on all wharfage and tonnage duties col ected by them, that they are now required by law to collect, to be paid monthly by dividing the same equally amongst them.

Ibid, s. 9. Vessels lying at the public wharves.

13. The harbor masters are hereby authorized so to regulate the manner in which all vessels shall lie at any of the public wharves, that the facilities of discharging and receiving cargoes may be afforded as generally as possible, and the public interest most promoted; and any person having charge of any vessel, refusing or neglecting to obey the harbor master in carrying out the above provision, shall forfeit and pay a fine of five dollars for each and every offence.

Ibid, s. 10. Yards, &c. regulated.

14. It shall be the duty of the person having in charge any vessel lying at any of the public wharves or docks, to top the yards, rig in the jib-booms, and place the anchor or anchors on the deck of said vessel, whenever required so to do by the harbor master or the occupier of any wharf or his agent; and any person having charge of any vessel, who shall neglect or refuse to obey directions as aforesaid, shall forfeit and pay a fine of five dollars for each and every offence.

Ibid, s. 11. Wharfage, how collected.

15. The harbor masters shall collect all wharfage daily, and whenever two days' wharfage is due, and the payment not secured to their satisfaction, they shall enforce the payment thereof in the same manner as other city dues are collected.

Ibid, s. 12. Harbor masters' books.

16. The register of the city is hereby authorized to furnish to the harbor masters such books as may from time to time be necessary, to keep accounts therein of each vessel, her tonnage, and the name of the master and consignee, which, when filled, or a change of officers takes place, shall be returned to the register, to be kept in his office.

Ibid, s. 13. Fires on board of vessels regu-

17. No person in charge of any ship or vessel, shall permit any fire to be kept on the deck thereof, while lying at any wharf or dock within the city, between the hours of ten o'clock at night and five o'clock in the morning, from the first day of April to the first day of October, and between the hours of nine o'clock at night and six o'clock in the morning from the first day of October to the first day of April; and it shall be the duty of the police officers to visit the bay craft within their respective districts, and give information of this regulation to some person on board.

Ibid, s. 14. Limits in which vessels may not remain at anchor.

18. No vessel shall remain at anchor for a longer period than one hour in that part of the harbor lying northwest of a line drawn from the terminus of Hull street at the port warden's line on Locust Point, to the building on the end of Hughes street, formerly occupied as a turpentine distillery; and the person in charge of any vessel so remaining at

anchor, shall forfeit and pay two dollars for every hour such vessel may so remain.

Ibid, s. 15. Vessels not to enter public docks without permission.

19. It shall not be lawful for any vessel drawing more than eight feet water, to enter any of the public docks of the city of Baltimore, without first obtaining permission from the harbor master, whose duty it shall be to provide a suitable berth for such vessel; and any master or skipper of such vessel, entering any of the aforesaid docks without such permission, shall forfeit and pay, for every such offence, ten dollars, and one dollar for each and every hour he shall obstruct the free passage of said dock thereafter. And it shall be the duty of the harbor master to keep a free passage in such docks for vessels and scows moving in and out of the same.

Penalty.

Ibid, s. 16. Public wharf on Pratt street.

20. The harbor masters are hereby authorized and directed, in pursuance of section 34, statutes, of this article, to put all the ordinances of the corporation relative to the public wharves in the city in full force on that part of Pratt street wharf heretofore reserved as a free wharf for Maryland vessels, to all intents and purposes as the said ordinances are now enforced on all public wharves, and vessels coming thereto, within the city; provided, that nothing herein contained shall be construed to exact wharfage from any vessel or vessels, belonging to citizens of Maryland, regularly engaged in the bay trade thereof; and provided also, that no boat or vessel shall be permitted to remain at said wharf more than six days at one time, or for the disposal of any one cargo.

Provisos.

Ibid, s. 17. Retailing goods prohibited on said wharf.

21. No vessel shall ever be permitted to remain at the said part of Pratt street wharf, for the purpose of retailing any wares or merchandise whatsoever purchased in the city of Baltimore.

Ibid, s. 18. Retailing goods at public wharves regulated.

22. No vessel shall remain at any of the public wharves for the purpose of retailing any goods, wares or merchandise other than the products and manufacture of the State of Maryland, more than three whole days; and no vesssel shall

lay at any of the city wharves for the purpose of retailing dry goods, wares, merchandise or produce, except the same has been brought into port by said vessel, under a penalty of ten dollars, and a further penalty of one dollar for every hour it remains after the master thereof shall have been notified by the harbor master to haul off.

Ibid, s. 19. Certain vessels not to enter dock without permission.

23. No vessel loaded with lumber projecting over the sides shall enter any dock whatever, without the master thereof having first obtained the consent of the harbor master so to do, under a penalty of twenty dollars.

Ibid, s. 20. Vessels not to lay in second tier without permission.

24. No vessel without the permission of the harbor master or his deputy, shall lay in the second tier in any public dock, unless for the purpose of discharging cargo into another vessel, under the penalty of five dollars, and one dollar per hour for every hour said vessel shall remain after the master thereof shall have been notified to remove by the harbor master or his deputy, and any vessel thus discharging into another shall remove, in order to let any other vessel pass in or out of the dock, whenever required by the harbor master, under the same penalty for non-compliance.

Ibid, s. 21. Vessels to be pumped out once a week.

25. It shall be the duty of each harbor master to notify the owners or consignees of all vessels lying within his district, to have the same pumped out at least once in each week, between the first day of June and the first day of November, and should such owners or consignees refuse or neglect so to do, he, she or they so refusing or neglecting, shall forfeit and pay a sum not exceeding twenty dollars, and shall moreover defray and pay the expenses incurred, should the harbor master have the same done, which he is hereby directed to do.

Ibid, s. 22. Notices of regulations to be served on masters of vessels.

26. The harbor master shall serve or cause to be served, a printed notice on all masters of vessels, except bay craft, within twenty-four hours after the arrival of such vessel at the port of Baltimore, which shall contain all the principal regulations of the port, and it shall be his duty to see the

same complied with, and the comptroller is hereby required to furnish the harbor masters with such notices.

27. It shall not be lawful for any person to heave down or clean a vessel at any public wharf within any part of the basin or harbor of the port of Baltimore, or land or put on shore on any of the said wharves any stones, bricks, ballast, oyster shells, dirt or filth, or to make any fire thereon, without the permission of the harbor master; and if any person shall be guilty of any of the offences aforesaid, such person shall forfeit and pay a sum not exceeding twenty dollars. Ibid, s. 23. Vessels not to be hove down, or wharves obstructed without permission.

28. Stone, ballast, sand, manure, oyster shells, ashes, or dirt of any kind whatsoever, shall not be taken on board any vessel lying at a city or public wharf, under a penalty of twenty dollars, unless the master of said vessel first obtain the consent of the harbor master or his deputy thereto, and they are hereby directed, before either of them grant permission as aforesaid, to see that the master of said vessel has taken all necessary precaution to prevent the navigation being injured by any such articles falling therein. Ibid, s. 24. Ballast, &c. not to be put on board without permission.

29. No ballast shall be landed from any vessel between the months of May and October, without permission therefor first obtained from the harbor master, under a penalty of twenty dollars. Ibid, s. 25. Nor landed without permission.

30. All vessels hereafter arriving in the port of Baltimore, (public vessels and bay craft only excepted,) having sand, dirt or gravel for ballast on board, shall, within forty-eight hours after their arrival, unless prevented by some unavoidable casualty, haul to some public wharf, and continue at such wharf during the time that they retain any such ballast on board; and every vessel offending herein shall forfeit, for every day this regulation shall be disregarded, the sum of twenty dollars, to be recovered from the captain or consignee of such vessel; provided, that the provisions of this section shall not extend to any vessel while subject to the quarantine or health regulations, nor to any vessel having emigrants Ibid, s. 26. Vessels in ballast to haul to a wharf. Proviso. Quarantine.

on board, until such vessel shall have been in port fifteen days.

WHARVES.

No. 24, s. 1, R. O.; No. 58, May 25, '66. Wharfage.

31. All vessels resorting to or lying at, landing, depositing or transporting goods or articles on any wharf or wharves belonging to the mayor and city council, or any public wharf in the city of Baltimore, other than the wharves belonging to or rented by the State, and that part of Pratt street wharf heretofore reserved for the use of the citizens of this State, shall pay wharfage according to the following rates, viz: there shall be charged upon all vessels lying at any of the city wharves, of ten and not exceeding fifty tons measurement, one dollar per diem; all vessels of fifty and not exceeding one hundred tons measurement, one dollar and fifty cents per diem; and all vessels over one hundred and fifty tons measurement, one cent per ton per diem; and all vessels outside of first tier, half price. Twelve and a half cents per cord shall be charged upon all firewood landed upon any of the city wharves; said wood, however, not to remain upon the wharf over five days: and all vessels, except those laden with firewood, resorting to or lying at, landing, depositing or transporting goods or articles on any wharf or wharves belonging to or rented by the State, shall pay dockage according to the following rates, viz: those occupying the first tier, shall pay one cent per ton per day; those occupying the second tier, two-thirds of a cent per ton per day; and all beyond the second tier, half a cent per ton per day.

Charge upon vessels.

Charge upon firewood.

No. 24, s. 2, R. O. Further rates of wharfage.

32. All vessels occupying the first and second tiers shall pay double the above rates for every day above six, and treble for every day more than twelve, that they shall remain at any of the said public wharves, unless authorized to remain longer by the harbor master, detained by ice, or by being aground; in which cases, they shall pay only single wharfage; and the harbor master is hereby authorized to extend the time for all vessels lying at public wharves over the six days mentioned in this section, in all cases when he may

think the public interest promoted thereby, when it does not operate injuriously to individuals; and if two or more vessels, owned or employed by the same person or persons, shall occupy the same berth successively, they shall pay wharfage as if they were one and the same vessel.

Two or more vessels belonging to the same persons.

33. All goods, wares or merchandise landed on the public wharves from on board any vessel or vessels lying at said wharves, or placed thereon for the purpose of shipment or exposure for sale, shall pay the following rates of wharfage for each and every day the same may remain thereon, or any less time, excepting however, firewood and lumber, the rates of which are to be accounted for the whole time allowed by ordinance for the same to remain on the wharves, to be paid by the owner or consignee, or in event of there being none the master of the vessel, and all goods shipped from one vessel to another, one-half price to be paid by the shipper; bags of coffee, ginger, pepper, or any other articles in similar bags, each one cent; bales of merchandise, cotton, dry goods, &c., each four cents; barrels of every description containing merchandise or otherwise, each two cents; boxes of sugar, dry goods and foreign drugs, gums, &c., each three cents; boxes of raisins, soap, tin, candles, &c., each one-half cent; castings of all kinds, per ton, fifteen cents; carriages, wagons, or carts, each twelve and one-half cents; coal, per ton of twenty-eight bushels, plaster, &c., five cents; cord wood, per cord, six and one-quarter cents; cordage, per ton, fifteen cents; crates of ware, or hampers of bottles, &c., each four cents; dyewoods of all kinds, per ton, fifteen cents; grain, per bushel, and all other articles sold by the bushel, other than the product of the State of Maryland, one-half cent; grindstones, each one cent; hides, per hundred, thirty cents; leather per hundred sides, fifteen cents; hogsheads and pipes of every description, containing merchandise or otherwise, each six and one-quarter cents; hemp, iron or steel, per ton, five cents; kegs of nails, shot, raisins, butter, lard, &c., each one cent; mill stones, each twenty-five cents; salt,

Ibid, s. 3. Rates on goods landed on or shipped from public wharves.

in sacks, each one cent; shingles and laths, per thousand, two cents; tierces of every description, containing merchandise or otherwise, each four cents; all other goods not enumerated in the above list, to pay in proportion.

Ibid, s. 4. Harbor masters to make returns.

34. It shall be the duty of the harbor masters to make their returns to the register of all money collected by them, so as to designate that received from vessels for wharfage or tonnage, and that received from goods, and the names of the vessels from which the same may be collected.

Ibid, s. 5. Vessels which are chargeable with city wharfage.

35. All vessels resorting to or lying at, landing, depositing or transporting goods or articles other than the production of this State, on or from any wharf or wharves belonging to the mayor and city council, or any public wharf in the said city, other than the wharves belonging to or rented by the State, shall be chargeable with the wharfage as fixed by this ordinance, upon all goods or articles landed or deposited on any wharf or wharves belonging to the said mayor and city council; and the master or owner of the vessel so depositing, landing or transporting said goods or articles, shall be responsible for the same.

Master or owner responsible.

Ibid, s. 6. Power of the mayor.

36. The mayor is authorized and empowered, if he should at any time find that it would promote the interest of the city and the convenience of the public, to receive from the owner or consignee of goods or articles so landed and deposited, the amount of wharfage which may be due thereon by the vessel, master or owner thereof, in lieu of any charge upon said vessel, to the amount or rate paid by the owner or consignee of said goods, and the said mayor is further empowered to make such agreements in relation to said wharfage as may be found necessary to secure the collection thereof.

Ibid, s. 7. Goods placed on the public wharves, when to be removed. Articles excepted.

37. All goods, wares and merchandise, except articles subject to inspection, which may be placed on any public wharf, shall be removed on the same day, under a penalty of twenty cents for every foot the same may occupy of the length of the wharf, and twenty-five cents per foot for every day which

the said goods, wares or merchandise, or any part thereof, may remain on said wharf.

Ibid, s. 8.
Firewood, lumber, &c. on the public wharves regulated.

38. It shall not be lawful for firewood to remain on any public wharf more than ten days, under the penalty of twenty-five cents per day per front foot of the wharf which it may occupy, and it shall not be lawful for any lumber, timber, posts, hoop poles, staves, laths or shingles, to remain on any of said wharves, city dock, or the landing on Jones' falls south of Pratt street, more than twenty days, under a penalty of twenty-five cents per day per foot of said wharf or landing.

Ibid, s. 9.
Firewood and lumber not to be landed on Bowly's wharf without permission.

39. It shall not be lawful for any person or persons to land on Bowly's wharf, any firewood or lumber, without the permission, in writing, of the harbor master of the district first had and obtained, under a penalty not exceeding twenty dollars for every load or part of a load of firewood or lumber so landed, and at no time shall more than one-third of the width of said wharf be occupied or used for the deposit of articles unladen from any vessel.

No. 58, s. 1, May 26, '66.
Rates of wharfage on lumber

40. The following rates of wharfage shall be charged and collected by the several harbor masters: on all lumber landed upon any of the city wharves, fifteen cents per thousand feet, and for every ten days said lumber shall be kept upon the wharf, an additional fifteen cents per thousand feet shall be charged and collected.

Ibid, s. 10.
Space vessels may occupy.

41. No ship or other vessel, boat or scow, shall be permitted to occupy with cargo, loading or discharging, a greater length of wharf than the hull of said vessel, without the special permission of the harbor master or his deputy, under a penalty of ten dollars, and all scows or other open boats used for carrying cargo, shall pay twenty-five cents for each time the said boat or scow shall load or discharge at any of the public wharves; provided, the same shall not remain at the wharf more than one day, and if more than one day twenty-five cents for each day, and all open boats or scows shall hereafter be subject to and regulated by the harbor master, with the approbation of the mayor.

Scows regulated.

Proviso.

Ibid, s. 11. Pratt and Light street wharves regulated.

42. It shall not be lawful for any person to encroach further on Pratt or Light street wharf, with any articles landed thereon, than eighteen feet, measuring from the inner edge of the logs or stone of which the said wharves are formed, nor shall any article not subject to inspection be permitted to remain on said wharves longer than forty-eight hours, under a penalty of ten dollars for each and every offence, and five dollars for each and every day it shall remain thereafter, nor shall any cart, dray, wagon or other vehicle, stand on said wharves longer than shall be absolutely necessary to load and unload, and all wagons loading and unloading, shall be drawn up close to and parallel with the curb stones, under a penalty of five dollars for each and every offence.

Ibid, s. 12. Wood or lumber not to be landed on McElderry's or Dugan's wharf.

43. It shall not be lawful for any person or persons to land on McElderry's or Dugan's wharves, or at the head of McElderry's dock, fronting on Pratt street, any firewood or lumber without permission, in writing, of the harbor master for the district first had and obtained, under a penalty of twenty dollars for every load or part of a load of firewood or lumber so landed, to be levied on any vessel or vehicle from which said wood or lumber may have been landed, and on the owner or owners thereof.

Ibid, s. 13. Not more than one third to be occupied.

44. At no time shall more than one-third of the width of said wharves be occupied or used for the deposit of said firewood or lumber, under a penalty of fifty cents per cord on the wood, and one dollar per thousand feet on the lumber; and it shall not be lawful for firewood or lumber to remain on said wharves more than twenty-four hours from the time of landing, under a penalty of fifty cents per cord on the wood, and one dollar per thousand feet on the lumber, for the first offence, and a similar penalty for each subsequent day on which said wood or lumber shall remain on said wharves, to be levied on said wood or lumber, and the owner or owners thereof.

Penalty.

45. Any vessel entering McElderry's dock with wood or lumber on board for the object of landing the same, shall not be permitted to occupy berths or remain in said dock more than four days, under a penalty of five dollars per day for each day which they may remain in said dock over four days, (Sundays excepted,) the penalties to be collected as provided for in section 43, above. Ibid, s. 14. Vessels not to remain more than four days. Penalty.

46. It shall not be lawful for any person or persons to rank, pile, or place any fire wood, lumber or any article of goods or merchandise on Light street wharf within twenty-five feet of the curb-stone, under a penalty of ten dollars for each and every offence, and five dollars for each and every day it shall remain thereafter. No. 30, Apl. 5, '66. Light street wharf regulated

47. It shall not be lawful to place any goods, wares or merchandise on any of the public wharves within sixteen feet of the curb-stones, under a penalty of five dollars for each offence; and it shall not be lawful to place any goods, wares or merchandise on any of the public wharves, unless the same be discharged from, or are to be laden on board some vessel, or to place anything which may obstruct the free passage of said wharves by carriages of any description, under a penalty of five dollars for each offence, and a further sum of one dollar per day for each foot in length of the wharf which the same may occupy, and for each day the same may remain; and the owner, proprietor or agent of any goods, wares or merchandise, who shall place or cause to be placed such goods, wares or merchandise so as to obstruct the passage aforesaid, and shall neglect or refuse to remove the same when required so to do by the harbor masters or any one of their deputies, shall pay a fine of ten dollars for each offence, and a further sum of five dollars for each day the same may remain thereafter. Ibid, s. 15. Goods on public wharves regulated.

48. The wharves in front of the several tobacco warehouses shall be reserved for the accommodation of vessels and scows bringing and taking tobacco to and from said warehouses, provided that the usual tonnage shall be paid. Ibid, s. 16. Wharves reserved for tobacco warehouses.

Ibid, s. 17. Fishermen to have exclusive use of wharf.

49. The harbor master for the district is hereby authorized and directed to allow the fishermen or dealers in fish, the exclusive use of the city wharf at the foot of President street, they paying the usual wharfage, and being subject to the ordinances regulating wharves and wharfage.

Ibid, s. 18. Goods belonging to unknown persons to be removed.

50. Whenever the owner or owners, agent or agents of any goods, wares or merchandise landed on any of the city wharves, cannot be ascertained by the harbor master, after said goods, wares or merchandise have been landed thereon forty-eight hours, it shall be the duty of the harbor master, and he is hereby authorized to remove said goods, wares, or merchandise, and deposit the same in some convenient and safe place, and to detain said goods, wares or merchandise until the owner or owners, agent or agents thereof shall pay the expense of removing and storing the same.

Ibid, s. 19. When and how said goods may be sold.

51. The harbor masters are hereby authorized to sell any property which may be removed by them from any of the wharves of the city, and detained under the preceding section, having first given at least thirty days' notice of any such sale, and pay the proceeds to the register for the use of the city,

Proviso.

provided, that any articles which are perishable in their nature, may be sold in any number of days, not less than three, in the discretion of the harbor masters.

Ibid, s. 20. Nuisances to be removed.

52. The said harbor masters are hereby authorized and directed to cause all watermelons and other fruits, fish and vegetables to be removed from the public wharves whenever they shall become a nuisance; and the owner or owners of any such watermelons or other fruit, fish or vegetables, shall forfeit and pay the sum of five dollars for each and every day he, she or they shall neglect or refuse to remove the same after being notified.

Ibid, s. 21. Carts, &c. regulated.

53. The said harbor masters shall not permit any cart or other vehicle to stand on any of the public wharves of the city for the purpose of retailing fruits or other articles, but shall cause the same to be removed as soon as loaded; and

in case of neglect or refusal on the part of any person having charge of the same to remove, when required by the harbor masters, or either of them, he or she shall forfeit and pay the sum of one dollar for each and every hour such cart or other vehicle shall remain after the notice for its removal.

Ibid, s. 22.

Harbor masters to collect penalties.

54. It shall be the duty of the harbor masters to collect, within their respective districts, all the aforesaid penalties; and if any person or persons shall obstruct the harbor masters, or either of them, in the collection of the aforesaid penalties, he or they shall forfeit and pay five dollars for every such offence; and the harbor masters, respectively, shall once in every month account, on oath, and pay over to the register all money by them received by virtue of this ordinance; and the harbor masters of the various districts shall not permit any booth, stand, stall, cart, wagon or any other vehicle or establishment to be erected or placed upon any of the public wharves of the city for the purpose of exposing for sale and selling by wholesale or retail, any fruits or other articles; and the owner or owners neglecting or refusing to remove the same, when required by the harbor master, shall forfeit and pay the sum of five dollars for each and every day they shall refuse or neglect to remove the same after being notified.

To account on oath, monthly, and pay to register.

Booths, &c. prohibited.

Ibid, s. 23.

Goods in transitu not to be charged with wharfage for less than one day.

55. No portion of this ordinance shall be construed to impose any charge on articles passing over or deposited on the wharves of the city for a less time than one day, for the purpose of delivery from or on board of any vessel trading within the limits of this State, other than the regular wharfage chargeable on such vessel.

PORT WARDEN.

No. 8, s. 1, Feb. 17 '63.

Port warden.

56. There shall be appointed annually, as other city officers are appointed, one port warden, who, before entering upon the duties of his office, shall execute a bond to the corporation, with such security as the mayor and the presidents of the two branches of the city council may approve, in the penal sum of ten thousand dollars, and with the condition

Bond.

that he will faithfully discharge the several trusts reposed in him.[1]

Ibid, s. 2. No. 15, Mar. 10, '64. Powers to employ and discharge workmen.

57. The said port warden shall have full power to employ[2] and discharge the workmen under him at such times as in his judgment the interests of the city may require, and all orders for the hire of machinery, scows, horses, carts or any other property entrusted to his care, shall be addressed to the port warden, and by him submitted to the comptroller for confirmation, and all moneys received for hire, as above mentioned, shall be paid over to the register of the city; and the port warden shall make a quarterly return to the mayor of the number of machines in public or private service, if in private service, for whom and where employed, together with all matters connected with the preservation and improvement of the harbor, and he is hereby empowered and directed to cause to be removed in such time as he may think reasonable, all vessels which now are or may hereafter be sunk in the harbor or port of Baltimore; and in case the owner or owners of such sunken vessels shall refuse or neglect to remove the same, when directed so to do by the warden, he or they shall forfeit and pay a fine of ten dollars per day for the use of the corporation, for every day the said vessel shall remain after due notice as aforesaid; and in case the owner or agent of such sunken vessel cannot be found, then the port warden shall be and he is hereby authorized and directed to proceed to remove said vessel, and draw on the register for the sum necessary to perform that duty; said sum of money to be taken out of any money in the treasury not otherwise appropriated, and as soon as the owners or agent of such sunken vessel so removed shall be found, the city counsellor shall be directed by the mayor to proceed and recover by law the amount expended for the removal of said vessel.

Money paid to register.

Quarterly return.

To remove sunken vessels.

Fine.

What register to pay.

Money, how recovered.

[1] This Ord. re-enacts No. 22, R. O., and supersedes No. 3, Feb. 28, '61, which created a board of city commissioners and port wardens, and directed the city commissioners to perform all the duties of port wardens.

[2] By Ord. No. 15, Mar. 10, '64, the port warden was authorized to increase the pay of employees in the city yard, in a sum not exceeding twenty-five cents per day. By No. 5, R. O., he was authorized, in his discretion, to pay $1.25 per day to laborers.

58. The port warden shall appoint as his clerk, a suitable and competent person, who shall act as foreman in the city yard, and take charge of the books and accounts pertaining to that department, and who shall keep a journal of the proceedings of the port warden, and also keep a correct account of all money received and disbursed, connected with the operations of the port warden; said clerk, before entering upon his duties, to give bond to the mayor and city council of Baltimore, with security to be approved by the mayor, in the sum of two thousand dollars for the faithful discharge of the trusts reposed in him, and to receive as a compensation for his services, the sum of one thousand dollars per annum. Ibid, s. 3; No. 18, Mar. 19, '64. Clerk appointed. Accounts. Bond. Salary

59. If on examination the warden shall discover that encroachments have been made in the harbor by any person, who has obtained or may hereafter obtain permission to make, build or extend a wharf, it shall be the duty of said warden to institute suit against such person, or to report the same to the mayor, to be by him laid before the city council. Ibid, s. 4. Encroachments on harbor.

60. It shall be the duty of the warden to aid and assist with the mud machines in cleaning such docks as the board of health may be of opinion require the use of said machines, the times when said mud machines are so employed in private docks, to be such as the warden may, with the approbation of the mayor, think right and proper; the expense of cleaning out said private dock or docks to be paid by the owner or owners thereof. Ibid, s. 5. To assist board of health. Mud machines. Clean private docks.

61. The port warden is authorized and directed, whenever he shall be called upon by any occupier or occupiers, owner or owners of any wharf or wharves, dock or docks, to deepen and cleanse the navigation at their wharves or dock, (when the deepening and cleansing the channel will permit of its being done,) to employ one of the old digging and one of the discharging mud machines in deepening and cleansing the navigation at such wharves or docks; and the port warden is hereby authorized and directed to demand and receive from the occupier or occupiers, owner or owners of such wharves Ibid, s. 6. Deepening and cleansing navigation. Fees.

or docks, the navigation of which he has so deepened and cleansed, twenty-seven dollars per day for the use of the double horse mud machine, and fourteen dollars per day for the use of single horse mud machines, and for the use of the steam mud machines, he shall charge and receive the sum of twenty-five cents per cubic yard.

Ibid, s. 7. Channel to be deepened.

62. It shall be the duty of the port warden to cause to be deepened a channel of two hundred feet in width within the following limits, viz: Beginning for the north line thereof, at a point fifty feet south of Pratt street, and the like distance east of Light street, and from that point passing fifty feet south of the southwest corners of Bowly's, South street and Commerce street wharves, and thence passing fifty feet south of the southeast corners of Dugan's wharf and McElderry's wharf, and thence passing fifty feet south of the southeast corner of Chase's wharf, and thence to a point at the distance of three hundred feet south from Patterson's wharf, at Fell's Point, upon a direct extension of the west line of said wharf, thence returning with lines parallel with those above described, and distant therefrom two hundred feet, to be deepened the entire length and breadth thereof, so as to admit a draft of not less than ten feet of water at common tides.

Ten feet of water.

Ibid, s. 8. To extend channel.

63. It shall be the duty of the port warden to extend and make navigable, that part of the harbor commencing at the eastern termination of the channel, as recognized by the preceding section, and to continue the said channel in an easterly direction as far as he may, with the approbation of the mayor, deem necessary; provided, however, that the depth of water in the channel shall at all times be not less than eighteen feet.

Proviso.

Eighteen feet of water.

Ibid, s. 9. Channel widened fifty feet from Light street.

64. The channel shall be widened, commencing fifty feet from Light street wharf, thence along said wharf, at the distance of fifty feet therefrom, until it would strike a line fifty feet north of Hughes' quay, and from thence eastwardly, parallel with Pratt street, until it intersects the south side of the channel described in section 62, above, and all that part

of the basin lying between said lines on the south and west and the said channel on the north, shall be deepened so as to admit a draft of ten feet of water at common tides; provided, always, that nothing herein contained shall be so construed as to prevent the port warden and board of health, under the direction of the mayor, from employing the mud machines in such places as in their opinion the public good may require.

Ten feet of water.

Proviso.

65. The port warden, with the approbation of the mayor and the presidents of the two branches of the city council, or a majority of them, are hereby authorized and requested to select and procure for the city some convenient place or places to deposit the sediment which shall be raised from the harbor, and to draw on the register of the city, from time to time, for such sums as may be necessary to carry this section into effect, to be taken out of the appropriation for the harbor.

Ibid, s. 10.

To select place for depositing sediment.

To draw on register.

66. The port warden, with the approbation of the mayor, is hereby authorized to dispose of the sediment raised out of the harbor in such way and upon such terms as he may deem most to the advantage of the city.

Ibid, s. 11.

Dispose of sediment.

67. It shall be the duty of the said warden to cause all public wharves to be rebuilt or repaired when, in his opinion, with the approbation of the mayor, the same may be necessary, to cause to be built solid and substantial wharves or abutments of durable materials, at the end or termination of all streets, lanes or alleys leading to or binding on the harbor or Jones' falls, to examine all private wharves, especially those constructed of wood, and should any such be found or hereafter become, decayed or defective, or from any other cause likely to be injurious to the navigation or to health, the warden aforesaid shall require the same to be rebuilt or repaired within a reasonable time, to be prescribed by him in a written notice to be served on the owner, agent or occupier of such wharf, and he shall also require the owners, agents or occupiers of lots binding on or running to the

Ibid, s. 12.

Repair wharves

Private wharves to be examined.

harbor, to cause the same to be secured in such manner as the said warden shall think proper, so that no injury can result therefrom to the navigation or to health, giving therefor a reasonable time prescribed in a written notice—not less than thirty days—to be served on the owner, agent or occupiers of such lot or lots; and if the said requisition or requisitions shall not be complied with, he, she or they shall forfeit and pay ten dollars for every day he, she or they shall so neglect; and if the owner is a minor, or cannot be found, it shall be the duty of the warden to have the wharf or lot secured at the expense of the owner, to be recovered in due course of law.

Notice,

Penalty for neglect.

Ibid, s. 13. Repairs of stone.

68. Whenever any of the present wharves, (except wharves lying in that part of the city of Baltimore called Fell's Point,) at which there is at common tides ten feet of water, shall require a thorough repair, or to an extent below what is usually considered high-water mark, it is hereby required to be done of stone under the superintendence of the port warden, and at the expense of the owner or owners thereof; and any person or persons neglecting to comply with the provisions of this section, shall be reported by the port warden to the mayor, who in such case is hereby required to proceed forthwith, through the aid of the city counsellor, to obtain an injunction; and any person or persons neglecting to comply with the provisions of this section, shall moreover be subject to a penalty of two hundred dollars.

Penalty.

Ibid, s. 14. Eight feet of water.

Back basin.

69. Not less than eight feet water shall be obtained at the lowest common ebb-tide previous to the first day of June, in each and every year, at the docks and wharves of the city above Jones' falls, and surrounding the pier in the back basin, and that the same depth be preserved until the first day of October, whenever deemed necessary by the port warden, with the approbation of the mayor.

Ibid, s. 15. City dock. Eight feet of water.

70. The city dock shall always be of sufficient depth to admit vessels not exceeding eight feet draft of water, and that it shall be the duty of the said port warden to cause a

mud machine to be used annually, or oftener, if deemed necessary, in Jones' falls, as far up said stream as may be practicable, and where the same cannot be used to advantage, to devise such plan or plans as he may deem best for deepening said falls, by and with the consent of the mayor.

71. If any person shall cast or throw any ballast, dirt, oyster-shells or filth into the water, in any part of the basin or harbor of the port of Baltimore, above the Lazaretto, or on the shore of said basin or harbor below high-water mark, or in Jones' falls within the limits of the city, unless for the making of a wharf after permission obtained for that purpose, and which wharf shall be well and sufficiently enclosed and secured, so as to prevent injury to the navigation, such person or persons so offending shall forfeit and pay for every such offence, a sum not less than twenty nor more than fifty dollars, one-half to the informer. Ibid, s. 16. Ballast, dirt, oyster shells, &c. not to be thrown in harbor. Penalty.

72. Hereafter no person shall, without permission of the port warden, throw or deposit dirt, mud, gravel, stones, or other materials in or on the shores or banks of the basin, Jones' falls, Gwinn's falls, Patapsco river, or any other stream of water within the limits of the city, or within four miles thereof, under a penalty of twenty dollars for each offence. Ibid, s. 17. Dirt, mud or gravel. Penalty.

73. It shall not be lawful for any person or persons, company or corporation, to cast, throw or cause to flow, any fish, crabs, animal or vegetable matter, gas tar, offal of houses, privies, or filth of any kind, into the waters of Jones' falls, Harford run, Chatsworth run, Schroeder's run, or any portion of the harbor or Spring Gardens, or any of the streams or sewers running therein, within the limits of the corporation; and if any company or corporation shall violate any of the provisions of this section, they shall forfeit and pay for the first offence, the sum of twenty dollars, and a further sum of twenty dollars for each and every day thereafter, until the nuisance is abated; and if any person or persons shall violate any of the provisions herein contained, he, she, or they shall forfeit and pay the sum of ten dollars for the first offence, and Ibid, s. 18. Fish, crabs, gas tar, offal, &c. Penalty. Penalty.

five dollars for each and every offence thereafter, one-half of said fines to be paid to the informer, and the remainder to be paid into the city treasury.

Ibid, s. 19.
Gas Light Company not to discharge tar or dregs.

74. If the Gas Light Company of Baltimore, or any other company or person shall discharge or cause any water to flow into Jones' falls, Harford run, Chatsworth run, Schroeder's run, or any portion of the harbor or Spring Gardens, or any of the streams or sewers running therein, within the limits of this city, in which water there may be any gas tar or other lees or dregs, unless the water so discharged shall be so filtered or strained as to prevent an accumulation of said tar, lees or dregs, in the channel or bed of said Jones' falls, Harford run, Chatsworth run, Schroeder's run, or any portion of the harbor or Spring Gardens, or any of the streams or sewers running therein, the company or person so offending shall forfeit and pay a fine of twenty dollars for the first offence, and a further penalty of twenty dollars for each and every day the said water shall be discharged, without being filtered or strained as aforesaid, one-half of said fines to be paid to the informer, and the remainder into the city treasury.

Penalty.

Ibid, s. 20.
Soundings to be made.

75. It shall be the duty of the port warden to cause correct soundings to be made in the harbor, showing the different depths of water at and between Donnel's wharf, at Fell's Point, and Light street wharf, at the head of the basin; also the depth of water in the back basin and Jones' falls, as high up said falls as Pratt street bridge, and report the same, annually, to the city council, in the first week of the session, together with an estimate of the cost of deepening and improving the harbor, stating what amount of money will be required for the use of the harbor from Light street to the west side of Patterson's wharf, Fell's Point; what sum from the west side of Patterson's wharf to Donnel's wharf; and also what sum in the back basin and Jones' falls; and also what sum will be required for the improvement of the harbor in the middle branch of the Patapsco river, within the limits of direct taxation.

Report to city council.

Amount required.

76. The port warden, with the approbation of the mayor, shall have exclusive control over all the affairs connected with the harbor, and all money appropriated for the same shall be expended under his direction, and be paid by the register to his order, approved by the comptroller. Ibid, s. 21. Port warden to have exclusive control. Register to pay.

77. The said port warden shall receive for his services the sum of fourteen hundred dollars per annum, and his whole time shall be devoted personally to the interests of the corporation; and should it be ascertained that he is engaged in, or connected with any business or pursuit other than that appertaining to his official duties, it shall be deemed good and sufficient cause for his removal by the mayor. Ibid, s. 22; No. 57, May 18, '66. Salary of port warden. Not to engage in any other business.

78. The port warden is hereby authorized and directed to pay to the engineers employed, and hereafter to be employed upon the steam dredges used by the city, the same salary as is now paid by the State upon the same description of machines for the same service. Res. No. 191, June 18, 59. Engineers of steam dredges.

79. It shall be the duty of the port warden to return to the comptroller of the city, for collection, all bills for private work performed by the dredging machines of the corporation. No. 2, Dec. 9, '58. Port warden to return to comptroller for collection bills for private work done by dredges.

DEEPENING CHANNEL.

80. Biennially, in the month of February, there shall be appointed, as other city officers are appointed, a board of six commissioners, who shall serve without pay, and who, with the mayor, shall be styled the board of commissioners for deepening and improving the channel of the Chesapeake bay and the Patapsco river, below Fort McHenry; said commissioners shall be citizens and residents of the city of Baltimore, of undoubted character, and selected with a view to skill and efficiency. The mayor shall preside at all meetings of the board: and in his absence, the board may appoint a chairman, pro. tem.; four members of the board shall constitute a quorum for the transaction of business.[1] No. 53, s. 1, Aug. 9, '62. Commissioners. Mayor to preside at board. Quorum.

[1] This ordinance recites that, by ordinance No. 5, entitled, an ordinance to provide for the removal of obstructions from the channel of the Patapsco river, approved June 18, 1852, a board of commissioners was appointed to carry into

Ibid, s. 2.
Board to receive and disburse moneys.

81. The board of commissioners hereby constituted are authorized to receive and disburse all moneys received from the State from auction duties, in accordance with the provisions of sections 43, 44, 45 and 46 of article six, entitled Auctions, and the same to apply to deepening and improving the channel of the Chesapeake bay and the Patapsco river, according to their best skill and judgment. They shall in all things conform to the provisions of said sections, and they shall have full power to employ such aid and machinery as in their judgment may be best suited to effect the object; they shall have power to appoint a secretary from their own body, and shall keep a record of all their proceedings, and shall annually, on or before the third Monday in January, report to the mayor and city council their proceedings, including the amount received by them, the amount expended, the condition of the work under their charge, including the progress of the work as contemplated by the sections aforesaid, and the description and value of all machinery on hand.

Report to mayor and council.

Ibid, s. 3.
Mayor to fill vacancies.

82. Should a vacancy occur in the board, by reason of death, resignation, removal from the city or declining to act, the same shall be filled by the mayor as other vacancies are filled.

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effect the provisions of the said ordinance, and the sum of fifty thousand dollars was appropriated for that purpose; and that a majority of said board being absent from the city, and the mayor and city council, by an ordinance approved Feb. 28, 1861, having abolished the office of port warden, one of the commissioners, as a distinctive office, thus leaving the board without a quorum to transact business; and that the sum appropriated by the ordinance of 1852, having been expended; and that, by act of assembly of 1853, c. 266, (secs. 127, 128, 129, 130, of P. L. L., art. 4. 1868, c. 13; see pp. 75-76, *ante*,) a sum not exceeding twenty thousand dollars, derived from auction duties, is to be paid to the city of Baltimore annually, for the purpose of deepening and improving the channel of the Chesapeake bay and Patapsco river, below Fort McHenry, and that it therefore becomes necessary to provide for the appointment of a board of commissioners to take charge of and disburse the money appropriated by the State.

See further, as to deepening channel and harbor, secs. 43-46, pp. 75-76, *ante*, and sec. 1, p. 76, *ante*.

By act of 1852, c. 296, the mayor and city council were authorized to levy and collect a tax not exceeding the sum of fifty thousand dollars, to be expended in removing obstructions from the bed of Patapsco river beyond the limits of direct taxation.

See also ord. No. 27, Mar. 31, '58.

83. It shall not be lawful for any member to contract for or be interested in any work done by the board, and should any commissioner be found to have an interest directly or indirectly in any contract entered into by the board, the same shall be declared null and void, and his place as a member of the board declared vacant. Ibid, s. 4. Commissioners not to be interested in contracts.

DRIFTINGS OF ARKS AND LUMBER.

84. If any ark or arks, or parts thereof, raft or rafts, or parts thereof, or lumber of ark logs shall be found drifting about or otherwise obstructing the basin or river within the limits of the city of Baltimore, the owner or owners, agent or agents, consignee or consignees of such ark or arks, or parts thereof, raft or rafts, or parts thereof, lumber or ark logs, shall forfeit and pay to the city the sum of five dollars for each and every day such ark or arks, or parts thereof, raft or rafts, or parts thereof, lumber or ark logs, shall be found drifting about or obstructing the harbor as aforesaid; provided, however, that the harbor masters or their deputies, or some of them, shall cause notice to be given to the owner or owners, agent or agents, consignee or consignees, whenever they or any of them can be found, to have such ark or arks, or parts thereof, raft or rafts, or parts thereof, lumber or ark logs immediately secured in such a manner as will not obstruct the navigation of said basin or river. No. 25, s. 1, R. O. Arks, &c., not to drift in harbor. Penalty. Proviso.

85. In case of the refusal or neglect of any owner or owners, agent or agents, consignee or consignees of any ark or arks, or parts thereof, raft or rafts, or parts thereof, or lumber or ark logs, to have the same secured as aforesaid; or whenever no such owner, agent or consignee can be found, it shall and may be lawful for the harbor masters, their deputies, or either of them, to cause the said ark or arks, or parts thereof, raft or rafts, or parts thereof, lumber or ark logs, to be secured, and to give notice by advertisement, to be published in two or more of the newspapers printed in the city, that such ark or arks, or parts thereof, raft or rafts, or parts thereof, lumber or ark logs have been so secured at the expense of the Ibid, s. 2. Duty of harbor masters.

owner, agent or consignee thereof, and that unless the expenses attendant on the securing thereof, together with the fine aforesaid, be paid on or before some day to be named in the said advertisement, not less than thirty days thereafter, the ark or arks, or parts thereof, raft or rafts, or parts thereof, lumber or ark logs so secured, will be sold at public auction, at the time and place therein mentioned, for the purpose of paying expenses and fine.

Ibid, s. 3. Penalty, &c., how recovered.

86. The penalty, cost and expenses imposed by the foregoing section of this ordinance, shall be recovered as other penalties are recovered, and in all cases where publication of notice shall be made as aforesaid, and the expenses and fine shall not be paid within the time limited in such notice, then it shall and may be lawful for the said harbor masters, their deputies, or any of them, to sell by public auction, the ark or arks, or parts thereof, raft or rafts, or parts thereof, lumber or ark logs so secured, and after paying the expenses of securing the same, to pay the surplus or balance of money obtained from said sale to the register of the city, said surplus, after retaining the fine, to be held by him until the owner or owners thereof shall satisfy the mayor of his, her or their right thereto, when the same shall be paid to such owner or owners under the direction of the mayor.

Surplus from sale.

Ibid, s. 4. Penalty for setting arks, &c., adrift.

87. Any person who shall maliciously, or with mischievous intent, cast loose or set adrift any ark or arks, or parts thereof, raft or rafts, or parts thereof, lumber or ark logs, or in any other way cause injury to be done to the same, shall be subject to a fine of five dollars—one-half for the use of the city, the other to the informer.

STEAMBOATS.

No. 26, R. O. Speed regulated.

88. It shall not be lawful for any boat or vessel of one hundred and fifty tons and upwards, propelled in whole or in part by steam, to enter the harbor or basin of Baltimore at or above the most eastern wharf at Locust Point, or to depart from said harbor or basin, or any part of it at or above the most eastern wharf at the said point, at a greater speed than ten

revolutions of the wheel or wheels per minute; and the master or commander of any boat or vessel, propelled in whole or in part by steam, which shall enter or depart from the said harbor or basin within the above limits, at a greater speed than ten revolutions of the wheel or wheels per minute, shall forfeit and pay the sum of twenty dollars for each and every such offence—one-half of such penalty to be paid to the informer, and the other to the city. It shall be the duty of the harbor masters, or their deputies, to leave a copy of this section on board each and every boat or vessel propelled in whole or in part by steam, in the harbor of Baltimore, and to enforce the provisions of this section in every case of violation thereof.

Penalty.

Duty of harbor masters.

KEEPER OF DRAWBRIDGE.

89. There shall be annually appointed, as other city officers are appointed, a suitable person to take charge of the drawbridge at Block street, whose duty it shall be to attend regularly to said bridge from sunrise to sunset, from the first day of February to the first day of November, and give free passage without hindrance, delay or molestation, to all vessels intending to enter or leave the city dock, and to keep the said bridge closed for the accommodation of workmen from fifteen minutes before until ten minutes after seven o'clock in the morning, and from five minutes before twelve until fifteen minutes after twelve, and from fifteen minutes before one until ten minutes after one; and to attend, during the months of November, December and January, from sunrise to sunset, (Sundays excepted) and to open and close, according to his own judgment, at such times as will best serve the travel of both thoroughfares.

No. 65, s. 1, R. O.

Keeper of drawbridge appointed.

His duties.

90. The salary of said keeper shall be six hundred dollars per annum, payable monthly; and the said keeper may be permitted to charge for his attendance at night and on Sundays, when it may be required, not exceeding fifty cents per vessel.

Ibid, s. 2; No. 32, Apl. 7, '64.

Salary.

Ibid, s. 3. Penalty for opening bridge without consent of keeper.

91. It shall be the duty of the keeper, at such times as he is directed to keep the said bridge closed, to give to all approaching vessels a signal that the bridge cannot be opened, and all persons disregarding such signal, or opening the bridge without the consent of the keeper, shall, in case of damage to said bridge, pay a fine of ten dollars, and all expense of repairing the same.

PORT WARDEN'S LINES.

No. 9. May 22, '38. Penalty for extending improvements beyond port warden's lines.

92. It shall not be lawful for any person or persons, proprietor or proprietors of any lot or lots binding on the water of the harbor, to extend any wharf, pier or platform beyond the lines hereinafter mentioned, which lines shall be called port warden's lines; under the penalty prescribed in section nine of the act of assembly of 1783, c. 24.[1]

[1] The act of 1783, c. 24, providing for a board of port wardens for this port, was superseded by sec. 272 of art. 4, P. L. L., (sec. 14 Statutes, of this article.)

The section above referred to is as follows:

No wharf or wharves shall be run out, made, altered, enlarged or extended, from and after the publication hereof, so as to divert the course of the channel, obstruct the harbor or basin, or to the injury of the same; and no person or persons shall make, alter or extend a wharf or wharves from and after the publication hereof, without laying before the wardens a plan of his or their intended wharf or wharves, and without consent first obtained, under the seal of the board, to carry the same into effect; and in case any person or persons shall make, alter or extend a wharf or wharves without such permission, it shall and may be lawful for the said wardens to recover, by warrant, before a magistrate, a sum not exceeding one hundred pounds, as in cases of debts not exceeding five pounds, and forthwith to cause the same to be demolished; provided, that this act is not meant to extend to the demolition or removal of wharves already made, built and extended. See *Giraud's lessee* v. *Hughes*, 1 G. & J., 249.

The principle that no patent ought to be granted for land covered by navigable water in front of the lands of riparian proprietors, applies to the case of lands lying in the harbor of Baltimore, where riparian owners have secured to themselves valuable rights and franchises of extending improvements into the water from their water lots, and which it would be inequitable for the State to deprive them of, by granting to others lands covered by water in front of their lots. *Patterson* v. *Gelston*, 23 Md., 433. See act of 1862, c. 129, Sup. '61–'67, p. 143, and *Day* v. *Day*, 22 Md , 530.

P. G. L., art. 97, sec. 21, is as follows:

Any person owning real estate in fee simple, or having therein an estate for years, renewable forever, on any of the navigable waters of this State, may construct wharves thereon, and extend the same such a distance into the stream as may be required to admit the safe approach thereto of any vessel navigating said waters; provided, said wharves be not extended so as to interfere with the fishing or navigation of said waters.

93. No person shall extend, erect or fill in a wharf on the west side of the basin beyond the line prescribed by the act of assembly of 1796, c. 45.[2] Ibid, s. 2. Line on west side of the basin.

94. The dotted lines made conformable to the extension of Thomas Tenant and others, on the northwest branch of the Patapsco river, on a chart which was returned to the port wardens in January, 1829, and deposited in their office, are hereby recognized and confirmed as the port warden's line; commencing for the said lines at the east end of Price's wharf, four hundred and twenty-four feet from Wolf street, and running to the east corner of Waters' wharf at V, thence in a straight line to W, at the east corner of the pier extended from Waters' wharf, round the several permissions granted to Seth Barton to G, at the south corner of the pier, extended from Donnell's wharf, and at the distance of three hundred and seventy-one feet from the southwest side of Pitt street; thence a straight line to F, at a point three hundred and forty-four feet from Pitt street, thence commencing on the west line of Ann street at E, on the chart, being at the distance of four hundred and twenty-eight feet from George street, thence in a straight line to the centre of Burke's wharf at L, being at the distance of three hundred and sixty-seven feet from George street, thence in a straight line to I, at the south end of Kerr's wharf, permission thence in a straight line to D, at the end of the centre pier of Chase's wharf, thence to J, at the south end of the pier of Cordery's wharf, at a point three hundred and eighty-nine feet from Philpot street, thence in a straight line to C, being at the distance of three hundred and ninety-seven feet from the range of the southermost side of Philpot street. Ibid, s. 3. Port warden's line established

95. All extensions or wharves hereafter to be made, built or constructed in that part of the harbor, including the cove between Price's wharf, Fell's Point, and the Sugar-house wharf Ibid, s. 4. Line for cove near Harris' creek.

[2] This act is entitled, an act permitting the proprietors of lots binding on the water on the west side of the basin in Baltimore town, to extend and improve the same.

near Harris' creek, shall be extended or made in the following manner, and shall not exceed the following limits, viz: from the northeast corner of Price's wharf, running northerly by and with the dotted line to the letter A, at a point four hundred and thirty-six feet easterly from Wolf street, and sixty feet south of Alice Anna street, as designated and laid down on a plat of a survey and location, made under the superintendence of the wardens aforesaid, on the 2d of May, 1816, which plat is deposited in their office, and from the letter A, or point aforesaid, easterly with the black line on said plat, until intersected by the line in the next section mentioned, and directed to intersect the same, and within said bounds, no wharf or extension shall exceed those limits, expressly reserving, nevertheless, to all persons interested, the benefit of any heretofore legally acquired right or extension, either from the old board of port wardens, or under the corporation; provided, that all extensions or wharves made under the authority of this ordinance, or otherwise, within the bounds aforesaid, shall be made, built or constructed in a good and substantial workmanlike manner, to be approved by the port wardens; and provided, also, that the several persons who may hereafter extend or wharf out their ground under this ordinance, or the permission hereby granted, shall, at the same time, extend and fill up Alice Anna street, as far as the same extends through their grounds respectively, and the same leave open as a public highway forever thereafter.

Proviso.

Further proviso.

Ibid, s. 5.

Line for Canton company.

96. The port warden's line in that part of the city of Baltimore hereinafter mentioned, begin at the end of a line drawn southwesterly, two hundred feet, at right angles with Boston street, as laid down on a plat entitled "Plan showing the improvements made and contemplated on the water line through that portion of the Canton Company's[1] ground lying within the city of Baltimore, drawn by T. Poppleton," and deposited

[1] The Canton Company was incorporated by act of 1828, c. 159. The South Baltimore Company by 1832, c. 96. Toulon Company by 1832, c. 201. The charter of the Canton Company is continued by act of 1867, c. 91, until February 1, 1887, and thereafter until repealed at discretion of the Legislature.

in the office of the register of the city, and which line is drawn from a point on the south side of Boston street, thirteen hundred feet southeasterly from the intersection of the south side of Alice Anna street, with the southwest side of Boston street, and running from the end of the first aforesaid line, northwestwardly, parallel with Boston street, until it intersects the line heretofore fixed by the said port wardens, running parallel with Alice Anna street, distant sixty feet southwardly therefrom.

Ibid, s. 6. Owners may fill out to line.

97. The owners and proprietors of water lots binding on the port warden's line, as now extended, are hereby authorized and empowered to wharf out, fill up and extend the same to the port warden's line as now established.

Ibid, s. 7. Owners on line to give city equivalent for water rights.

98. Before such extension shall be commenced, the port wardens shall ascertain and establish, at the expense of the proprietors, the exact location of the permission in the last section granted; and provided further, that this and the last section shall be of no effect until the proprietors of the water front, from Chester to Burke street, shall give to the mayor and city council an equivalent for the water rights, which the line granted by this ordinance will deprive the city of at the termination of the several streets and alleys on the present port warden's line; said equivalent to be ascertained by arbitrators, one of whom shall be selected by the mayor and presidents of the two branches of the city council, the other by the Canton Company of Baltimore, and should they not agree, said arbitrators shall select a third person, the decision of a majority of whom shall be conclusive, and the said arbitrators shall award a sum of money as an equivalent for any water rights of which the city may be so deprived.

Ibid, s. 8. Wharves so built to be subject to port warden's inspection.

99. The said wharves so contemplated and intended to be built and extended, shall be subject, nevertheless, to the inspection and approval of the port wardens of the port of Baltimore.

Ibid, s. 9. Canton company's improvements assented to.

100. The survey and map made by said Canton Company and deposited in the register's office, marked Plan showing

the improvements made and contemplated, on the water line through that portion of the Canton Company's grounds lying within the city of Baltimore, drawn by T. Poppleton, December, 1832, and the alterations and new locations in the course of the streets, lanes and alleys, and of the water line or wharf therein designated, are hereby assented to and approved of.

Ibid, s. 10. Port warden's line confirmed.

101. The line of extension drawn and located by the board of port wardens, agreeably to the provisions of the resolution, No. 28, approved March 8, 1833,[1] commencing for the same at the Sugar-house wharf, and running southeastwardly to the extended limits of the city, as delineated on a chart returned by the said board of port wardens to the city council, dated January 1, 1835, as amended in pursuance of two ordinances, one passed March 17, 1836,[2] the other March 13, 1837,[3] is hereby approved of, and declared to be the line or limit beyond which no wharf or wharves, or extensions of any kind, shall hereafter be constructed or made in that part of the harbor contained within the above limits.

Ibid, s. 11. Amendment.

102. The amendment of the plat mentioned in the last section, therein recognized, consists in drawing a line from the northeast corner of James Frazier's wharf, and running thence southeasterly in a straight line to a point forty feet northeasterly from the southwesternmost corner of the Canton Company's westernmost stone pier, until it intersects the port warden's line drawn parallel with Boston street, and southerly two hundred feet therefrom.

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[1] By this resolution the port wardens are directed to make out a survey and chart of that part of the harbor commencing at the then termination of the port warden's line at Sugar-house wharf, running southeastwardly to the extended limits of the city, and to cause a line to be drawn as a port warden's line, and they are directed to return the said survey and chart to the council at its next annual session.

[2] Ord. No. 12, entitled an ordinance to authorize the Canton Company of Baltimore to construct certain sewers and reservoirs and for other purposes.

[3] Ord. No. 19, entitled a supplement to an ordinance to authorize the Canton Company of Baltimore to construct certain sewers and reservoirs and for other purposes.

103. The line of extension located by the board of port wardens, agreeably to resolution No. 39, approved March 30, 1833,[1] commencing for the same at Locust Point, and running southeastwardly to Fort McHenry, thence westwardly along the north side of the middle branch of the Patapsco river to Ferry Point, and thence northwestwardly with the meandering of the shore to Bush street, as delineated in a chart returned by the said board of port wardens to the city council, dated January 1, 1834, is hereby approved of, and declared to be the line or limit beyond which no wharf or wharves, or extension of any kind shall hereafter be constructed or made in that part of the harbor contained within the above limits.

Ibid, s. 12. Line from Locust Point to Fort McHenry.

104. The line of extension located by the board of port wardens, commencing for the same at Locust Point, and running thence westwardly around the cove to the north side of Cross street, as delineated on the chart referred to in the last preceding section of this ordinance, is hereby approved of, and declared to be the line or limits beyond which no wharf or wharves, or extension of any kind shall hereafter be constructed or made in that part of the harbor.

Ibid, s. 13. From Locust Point to Cross street.

105. No extension or wharf shall hereafter be made, built or constructed, on that part of the basin or harbor, from Harbaugh's wharf on the north side of Montgomery street to Johnson street, unless such extension or wharf be made or constructed in conformity to the yellow line shaded blue, as delineated and shown on a plat or chart of a survey made under the direction and superintendence of the board of wardens aforesaid, on the first day of May, 1816, and deposited in their office. And if the proprietor or proprietors of the property included within the black letters B to C, as marked

Ibid, s. 14. Extension of wharves in certain parts of harbor prohibited.

1 By this resolution the port wardens are directed to make a survey and chart of that part of the harbor commencing for the same at Locust Point and at the termination of the then port warden's line, and running thence southeastwardly to Fort McHenry, thence westwardly along the north side of the middle branch of the Patapsco river to the Ferry Point, thence northwestwardly with the meandering of the shore to the bridge crossing the middle branch of the Patapsco river, and they are directed to return said chart and survey to the council at their next annual session.

on the said plat, shall deem him or themselves authorized or empowered under any prior right to extend further into the basin than the aforementioned yellow and blue shaded line, then and in that case, it is hereby expressly declared that the said proprietor or proprietors shall be strictly confined and limited to such prior right and permission in all its parts.

Ibid, s. 15.
Streets, &c. to be extended.

106. All streets, lanes and alleys, heretofore laid out within any and all of the ground by this ordinance permitted to be extended, shall at the same time be extended with the private property of the several and respective proprietors who may extend their grounds, at the expense of the persons so extending respectively, as far as the same may pass through their property, and be left as public highways forever thereafter.

Ibid, s. 16.
What wharves declared city wharves.

107. All wharves made out into the basin or harbor in front of any street or part of a street, which street was heretofore laid out in the plan of the town as extending to the water, are hereby declared city wharves.

No. 45, June 17, '52.
Change of port warden's line.

108. The port warden's line, described in above sections 92 to 107 inclusive, is changed in the following particulars: In lieu of a portion of the port warden's line as at present established, a new line shall begin at the distance of four hundred and thirty-one feet southerly, from the south side of the stone wall now erected on the south side of Block street, and in a range with the stone wall now erected on the east side of the inlet to Jones' falls, at No. 1, in the plat hereinafter mentioned, and running thence southeasterly, to a point on the line of the west side of Henry Patterson's wharf, prolonged southerly one hundred and fifty feet, from the south side of a jog in said wharf; thence, still easterly to a point on the line of the east side of Wills street prolonged southerly, and four hundred and thirty-eight feet from the south side of Philpot street; thence, still easterly, to a point on the west side of Chase's westernmost platform prolonged southerly one hundred and fifty feet from the head of the wharf; thence, still

At Jones' falls.

Wills street.

Philpot street.

easterly, to a point on the line of the westernmost side of Chase's easternmost pier prolonged southerly, and one hundred and eighty-five feet from the head of the wharf; thence, still easterly, to a point on the line of the east side of the platform of Kerr's old wharf prolonged southerly, and at the distance of one hundred and fifty feet from the head of said wharf; thence northeasterly to the southeast corner of the County wharf; thence to the southwest corner of Tenant's old wharf; thence two hundred and sixty-six feet to a point at the distance of four hundred and sixty feet southerly from the south side of Thames street; thence southeasterly to a point on the line of the southeast side of Mohler's wharf prolonged one hundred and eighty-eight feet from the head of said wharf; thence to the southwest corner of Gibson's wharf, and thence to the southeast corner of Henderson's wharf, and thence with the present port warden's line.

Chase's pier. Kerr's wharf. Mohler's wharf. Henderson's wharf.

109. The owners of the wharves, now known as Corner's and Mohler's wharves, are hereby authorized to alter and extend their respective wharves in conformity with the above described line, and according to the plan of such alteration and extension represented on the new map of the harbor, made by Messrs. Bouldin and Dawson, and hereinafter particularly mentioned, and in no other manner.

Ibid, s. 2. Corner's and Mohler's wharves.

110. The owners of the property fronting on the harbor, immediately on the west side of the opening into the city dock, are hereby authorized to extend their present wharf as far as a line drawn from the southernmost obtuse angle of the city block, in the direction of the southwest corner of Patterson's old wharf, and within said line and a line drawn parallel with the west side of said block prolonged southwardly, and thirty feet westerly therefrom.[1]

Ibid, s. 3. Outlet of Jones' Falls.

[1] Ord. No. 2, Jan. 22, '67, enacts that:

The port warden's line easterly of the obtuse angle of the City Block, shall be a line drawn from said angle to the southwesternmost corner of the wharf now constructed on the east side of the entrance into the city dock, and that the owners of property mentioned in sec. 3 of ordinance approved June 17, 1852,

Ibid, s. 4. South side of basin.

111. The proprietors of the wharf on the south side of the basin, adjoining and east of Johnson street, are hereby authorized to erect a platform wharf, projecting northerly from said wharf opposite to and at a distance of eighty-seven feet from the present wharf at Johnson street, as far as a line drawn from the northeast corner of Reeder's wharf and Henry street to a point twenty-six feet southerly from the northeast corner of the wharf known as Hughes' quay, on the west side of Johnson street, said platform not to exceed in width forty-five feet from east to west.

Ibid, s. 5. How lines to be adjusted.

112. The map executed by Bouldin and Dawson, and deposited with the register, and dated May 24, 1852, shall be taken and held to furnish a true representation of the port warden's line herein indicated, and shall govern wherever there may be difficulty in adjusting a location according to the terms of this ordinance.

Ibid, s. 6. Platforms and wharves, how to be built.

113. All wharves or platforms hereafter to be erected or removed within the limits of the basin and harbor of Baltimore, shall be built upon piles, so as to allow the free flow of the water underneath the same.

No. 66, July 8, '52. Proprietors of wharves at Locust Point.

114. The proprietors of the wharves on the northwest side of Locust Point, at the intersection of the 100 feet avenue, and Jones and Nicholson, and Porter and Marriott, and Allen and Beason streets, as formerly laid down on port warden's plat, as now filed in the city commissioner's office, are hereby authorized to alter and change the port warden's line as follows, viz: commencing at a point on the present port war-

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(sec. 110, above,) are hereby authorized to extend their present wharf thereto, the same to be done under the supervision of the port warden.

Ord. No. 74, Sept. 3, '60, enacts that:

The owners of the wharf authorized to be built by section 3 of ordinance to which this is a supplement, approved June 17, 1852, are hereby authorized to take down and remove the present wharf built on piles, and to replace the same by a wharf built of stone, the said stone wharf not to project in any part beyond the limits of the existing wharf on piles, nor beyond the present port warden's line; that the same stone wharf shall be built in a substantial and durable manner, upon a plan to be approved by and under the supervision of the port warden.

den's line as now established between Cox and Nicholson, and between Nicholson and Marriott, and between Marriott and Beason streets, at the distance of 233 feet from the extreme points formed by the outermost intersections of Cox and Jones streets, and Nicholson and Porter streets, and Marriott and Allen streets, and to run northwesterly parallel with Nicholson and Cox, and Nicholson and Marriott, and Marriott and Beason streets, 233 feet, and thence southwesterly parallel with Jones, and Porter, and Allen streets, 200 feet to the present port warden's line as now established, reserving the space of 100 feet avenue on first and second lines.

Where change of line may be made.

115. The proprietors of the northeast portion of the harbor lying between the south side of the extension as now granted Ed. Mohler, and the south side of the westernmost pier or platform of Henderson's, formerly Donnell's wharf, are hereby authorized to extend the said wharves in their present direction as follows: commencing at the northwest corner of Oelrich & Lurman's present wharf, and to extend westerly 50 feet, then southeasterly to a point 30 feet southwesterly from the end of the southwest corner of the present platform as now erected at Henderson's wharf, and thence southeasterly to the southeast corner of said platform.[1]

Ibid, s. 2. Other locations

116. The port warden's line at Locust Point is hereby extended, so far as it runs in a northwesterly and southeasterly direction into the harbor, from the present port warden's line, on the west side of Jones street or avenue, twenty-five feet; thence in a northeasterly direction until it reaches the port warden's line, between Decatur and Towson streets extended, within one hundred feet of the line at Decatur street, and on the north side thereof; thence southerly one hundred and sixty-five feet, until it intersects the present port warden's line on Cox street or avenue.

No. 86, July 16, '53. Extension of port warden's line at Locust Point.

117. The port warden's line on the north side of Beason street is extended in a straight and parallel line till it intersects a line formed by the continuation of the southeastern-

No. 111, May 7, '53; No. 36, May 9, '62. Port warden's line changed.

[1] Ord. No. 69, July 21, '52, confirms above Ord. No. 66, July 8, '52.

most side of Webster street, and thence northwestwardly until it intersects 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 two docks, each of the 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 at a point opposite 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 the McTavish estate, 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 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; and the city commissioner is directed to note this alteration on the plat of the city.

Proviso.

No. 119, Oct. 5, '53. Provision in regard to extension of port warden's line.

118. Before the port warden shall proceed to extend the port warden's line, as is required in above section 117,[1] the owner or owners of a majority of the property adjoining the property belonging to the city of Baltimore, shall file in the office of the city register, a written agreement consenting to the terms of the ordinance to which this is a supplement, and also that the proposed improvement shall be made in conformity with that portion of the plat marked "A," now on file in the office of the register, as is delineated by yellow lines, and embraced between the letters A, B, C, D, on said plat.

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[1] Ord. No. 119, Oct. 5, '53, recites that, in carrying out the improvement proposed by the ordinance to which this is a supplement, (section 117, above,) it was designed and it is hereby declared to be the intention of the mayor and city council of Baltimore, that said improvement should be made so as not to diminish the water front now held and enjoyed by the mayor and city council of Baltimore, but that it should be made to conform to that portion of "the plat marked A," which is deposited in the register's office in the city of Baltimore, and colored by yellow lines, and embraced within the letters A, B, C, D.

No. 12, Mar. 22, '55.
James Boyce and others may change port warden's line.

119. James Boyce, William Callow, Andrew Ellicott, Henry William Ellicott and others, interested owners of property on the south side of the harbor, are hereby authorized to change the port warden's line, so that the line shall begin for the same at a point seventy-seven feet westerly from the intersection of Cox and Decatur avenues, at port warden's line; thence running northeasterly at right angles with Cox avenue, one hundred and sixty-six feet; thence thirty feet parallel with Cox avenue, to the present port warden's line; thence westerly two hundred and ten feet, or thereabouts, to a point formed by proposed extension of present coal wharf, thirty-one feet northeasterly of present port warden's line; thence westerly to a point twenty-five feet inside of present port warden's line at the northwest junction of Cox and Jones avenues, at present port warden's line, and running thence westerly to the northwest intersection of Nicholson and Porter avenues, at the port warden's line; thence preserving the same direction to the northwest intersection of Allen and Marriott avenues, also at port warden's line. All the above named lines and distances to be according to plat filed in the register's office; the same to be done under the superintendence of the port warden, the expense attending the change to be paid by the first named parties; provided, however, that nothing herein contained shall be construed so as to affect disputed rights of property on said port warden's line; and also provided further, that should the above parties require a greater depth of water in front of their property, it shall be obtained at their own expense.

Boundaries.

Provisos.

No. 32, May 15, '55.
E. Pratt and W. Callow may change port warden's line.

120. Enoch Pratt and William Callow, owners of property on the south side of the harbor, are hereby authorized to change the port warden's line, so that the line shall begin for the same at the intersection of Cox and Towson avenues, at port warden's line, and run southeasterly sixty feet; thence northeasterly one hundred and eighty feet, or thereabout; thence southeasterly three hundred and thirty-five feet, or thereabout, to a point of intersection of Cox and Andre avenues, at port warden's line; thence continuing the same

Boundaries designated.

line southerly four hundred feet, or thereabout, to a point two hundred and sixty-five feet north of the north side of Nicholson avenue, at port warden's line; thence westerly two hundred and sixty-five feet, or thereabout, to a point on Andre avenue at port warden's line, eighty-five feet north of the intersection of Andre and Nicholson avenues, at port warden's line. All the above named lines and distances to be according to plat filed in the register's office.

No. 51, June 16, '55. J. Swann and others may change port warden's line.

121. J. Swann, William Woodward, A. B. Davidson and D. M. Reese, proprietors of property on the south side of the basin, are hereby permitted to alter and change the port warden's line as fixed and changed by the last preceding section, and to run southwestwardly to the port warden's line as established by section 117, at the northwest intersection of Ludlow avenue and said port warden's line, agreeably to the plat filed with the register of the city.

No. 56, Sept. 21, '55. J. W. and E. Patterson and others may extend the port warden's line.

Limits.

122. J. W. and E. Patterson, J. R. Kelso, H. Patterson, H. Cooper, T. Matthews, Joseph Abrahams, and T. Chase, owners of property on the north side of the harbor, are hereby authorized to change the port warden's line, so that the line shall begin on the east side of the inlet to Jones' falls, at the same point at which the port warden's line commences, under section 108, and running thence southeasterly to a point on the line of the west side of Henry Patterson's wharf, prolonged southwardly two hundred and ten feet from the south side of a jog in said wharf; thence easterly to a point on the line of the east side of Wills street prolonged southerly, and four hundred and ninety-eight feet from the south side of Philpot street; thence still easterly to a point on the west side of Chase's westernmost platform, prolonged southerly one hundred and eighty feet from the head of the wharf; thence easterly to a point on the line of the westernmost side of Chase's easternmost pier, prolonged southerly one hundred and eighty-five feet from the head of the wharf. And all the above named lines and distances shall be according to plat filed in the register's office.

123. The beds of the several streets, lanes and alleys, shall have their terminus at the contemplated port warden's line. Ibid, s. 2. Ends of streets.

124. The individuals to whom the privileges of extension are granted by this ordinance, and their successors, shall at all times keep the water in the inlets and docks appertaining to the aforesaid wharves, of equal depth with the water outside of the new port warden's line. Ibid, s. 3. Water to be kept of proper depth.

125. The port warden's line is hereby so changed as to allow A. Schumacker to extend the two piers of the Commercial wharf thirty feet, or thereabout, beginning for the same at the southeast corner of the County wharf, at port warden's line; thence running in a direct line eastwardly to the southwest corner of Corner's wharf, at port warden's line; provided, A. Schumacker shall comply with the provisions of this article for the preservation of the navigation of the harbor of Baltimore. No. 25, May 23, '56. Change of port warden's line at County wharf. Proviso.

126. John W. Ross and the New Creek Coal Company are hereby authorized and permitted to change the port warden's line, so as to extend the piers of their wharf, situated at Locust Point, between Haubert and Decatur streets, in the following manner, viz: beginning for the same at the northeast corner of J. W. Ross' pier, at present port warden's line, and running northerly fifty feet; thence westerly twenty feet; thence southwesterly one hundred and seventy feet, or thereabouts, to the extreme northwest corner of Decatur street at the port warden's line. No. 26, May 23, '56. Port warden's line at Locust Point.

127. The piers to be extended, as provided for in the preceding section, shall be platform piers erected on piles, so as to allow the water to flow beneath the pier; and the said J. W. Ross and New Creek Coal Company shall at all times keep at least fifteen feet depth of water for a distance of fifty feet outside of said extension. Ibid, s. 2. Depth of water.

128. J. Philip and J. Dixon Roman are hereby permitted to change the port warden's line in front of their property at Locust Point, so as to allow them to extend a pier fifty feet No. 30, June 15 '56. Port warden's line at Locust Point changed.

beyond the present port warden's line: beginning for the same at the point marked A, (on the plat filed in the register's office,) which point is the centre of Haubert street; thence running northeasterly fifty feet to a point marked B; thence east twenty-seven degrees south at right angles with Haubert street, and parallel with the present port warden's line one hundred and seven feet, or thereabout, to a point marked H; thence east thirty-five degrees, south, five hundred and fifty feet, or thereabout, to the southeast corner of Towson street, at port warden's line, as now established and marked I, on plat; provided, the aforesaid Romans shall comply with the statutes of the State and ordinances of the mayor and city council of Baltimore, for the preservation of the navigation of the harbor of the city of Baltimore; and they shall at all times keep a depth of fifteen feet of water for a distance of fifty feet outside of port warden's line, and the said Romans shall proceed (at or before the time they avail themselves of the provisions of this ordinance) to cede to the city all and every interest in the bed of Haubert street, as a public highway forever, and which bed shall extend from Nicholson street to the contemplated port warden's line.

Proviso.

Conditions.

Deed to the city —bed of Haubert street as a public highway

No. 12, Apl. 4, '57.

Noah Walker empowered to erect a wharf or wharves.

129. Noah Walker is hereby authorized and empowered to erect a wharf or wharves in front of his parcel of land near the Ferry Bar, on the west side of the Ferry Point road, (in accordance with a plat filed in the register's office,) to an extent not exceeding one hundred and five feet outside of the port warden's line; provided, however, that the said Noah Walker, his heirs and assigns, shall keep at all times at least eight feet of water in front of said wharves, (excepting the termini of the streets, which shall belong to the corporation of Baltimore;) and if the said Noah Walker, his heirs or assigns, shall neglect or refuse to keep and maintain such depth of water as aforesaid, then it shall not be lawful for them, or either of them, to make any charge for wharfage or landing upon said wharves during the period said depth of water may not be kept or maintained.

Proviso.

130. Race street, Clarkson street, Hanover street, Goodman street, or alley, and Charles street, shall be continued southerly from Kelso street, through the land of the said Noah Walker, of the same width as those streets respectively are north of said Kelso street; and that Kelso street and Hammond street shall be continued westerly from Charles street, of the same width as said Kelso street and Hammond street are east of Charles street, in the same manner as if those streets respectively had been thus laid down upon the city map; provided, that nothing herein contained shall be taken as abandoning any rights to wharfage at the ends of the aforesaid streets, which can be claimed in any way by the mayor and city council of Baltimore.

Ibid, s. 2.
Race, Clarkson, Hanover, Goodman and Charles streets continued.
Hammond and Kelso streets continued.
Proviso.

131. If the said wharves are not erected within seven years from the first day of February, 1857, then the preceding two sections shall be of no force or virtue in law; and all rights in relation to the property and water rights interested, shall remain as if these sections had never been enacted.

Ibid, s. 3.
Wharves to be erected within seven years.

132. John Boyd and Baker Brothers & Co. are hereby authorized and permitted to extend the port warden's line at their property, situate and lying on the Spring Gardens Ferry Branch, and to erect wharves.

No, 5, Mar. 19, '58.
To extend port warden's line.

133. The extension, as provided for in the preceding section, shall commence from a point on the southeast side of Warner street, at the distance of three hundred and sixty-five feet southwesterly from the southeast corner or intersection of Warner and Ostend streets, and which place of beginning is designed to be at the original port warden's line at the present old wharf, and running thence forty-seven and a half degrees west, bounding on Warner street, or the present port warden's line as established one hundred and seventy feet to the range of the northernmost side of William street,[1] and running thence south forty-two degrees, east one hundred and ninety-two feet, until it intersects a line drawn southwest-

Ibid, s. 2.
Boundaries designated.

[1] Laid out under Ord. No. 54, June 17, '50.

erly parallel to Warner street, from a point on the southernmost side of Ostend street one hundred feet southeasterly from the

Boundaries.

southeast corner of Warner street and Ostend street, and running thence southeasterly parallel to Ostend street fifty-four feet; thence northeasterly parallel to Eutaw street, about two hundred and forty feet to the original port warden's line at

Proviso.

the old wharf; provided, that the said John Boyd and Baker Brothers & Co., for themselves, their heirs and assigns, obligate to keep a depth of eight feet of water at the east side of said wharves.

Ibid, s. 3. Wharves, how to be erected.

134. The wharf to be erected as provided for in section 132, shall be of good, sound timber, constructed in a strong and substantial manner, upon piles secured with good and sufficient ties, well sheathed and fastened, so as to prevent the earth from falling into and filling up the harbor, and filled up in such manner as will prevent the water or any other offensive matter from settling or stagnating upon the premises, and thereby endangering the health of the neighborhood.

Ibid, s. 4. Proviso.

135. In case John Boyd and Baker Brothers & Co. shall fail to comply with the requirements of the preceding three sections, then the same shall be void and of no effect.

No. 68, Apl. 16, '59. Permission to G. K. Tyler & Co. to extend port warden's line.

136. Permission is hereby granted to G. K. Tyler & Co. to extend the port warden's line in front of their lot situate on Boston street, as follows: beginning for the same at the point on the port warden's line, where the easterly face of the western abutment of the railroad bridge over Harris' creek at

Boundaries.

Boston street continued would intersect said port warden's line; thence southwestwardly 141 feet 5 inches to a point 100 feet south of the port warden's line, at right angles thereto; thence northwestwardly 290 feet 8 inches in a line, which, if continued, would strike the southeast corner of the wharf leased to Pratt & Brother; thence northeastwardly 80 feet, to a point on the port warden's line 390 feet west of the place of beginning; thence southeastwardly binding on the port

Proviso.

warden's line 390 feet to the beginning; provided, that the

same shall be removed within five years, notice being given to that effect by the mayor and city council, at the expense of the owner or owners thereof.

137. Before the said G. K. Tyler & Co. shall extend the port warden's line as described in the preceding section, they shall give to the city of Baltimore the privilege of a water course for street drainage through their lot, at or near the northwest line of said lot. Ibid, s. 2. Conditions on which the line extended.

138. Thomas Winans, owner of property on the main branch of the Patapsco river, is hereby authorized and empowered to change the port warden's line in front thereof; so that the line shall begin for the same at the southeast corner or intersection of Jackson and Moale streets extended to the port warden's line, and running thence in a straight line southwardly on the line of Jackson street produced in a straight line until it intersects a line extended eastwardly parallel with Ferry street, and one hundred feet north of the north side thereof, and then bounding on that line westwardly until it intersects the present port warden's line, in conformity with a plat filed in the register's office. No. 14, Mar. 22, '60. Authorizing Thos. Winans to change the port warden's line. Boundaries.

139. Thomas Winans, Ross Winans and William L. Winans are hereby authorized to construct solid piers or wharves extending from their property on the main branch of the Patapsco river to the port warden's line, as established by the preceding section. No. 48, July 2, '60. Authorizing the Winans to construct piers.

140. The port warden's line between Washington and Burke streets is hereby extended to conform to the following metes and bounds: Beginning for the same at a point 175 feet easterly from the east side of Washington street, and 239 feet southerly from the south side of Alice Anna street, measured at right angles to said streets, and running thence southeasterly to a point 272 feet south of the south side of Alice Anna street, and 480 feet easterly from the east side of Washington street, measured at right angles to said streets; thence continuing said southeasterly line, in a direct line, to a point 300 feet southwesterly from the southwest side of Boston street, No. 13, Apl. 1, '65. Extend port warden's line.

measured at right angles thereto, and thence southeasterly parallel to Boston street, and 300 feet therefrom to the northwest line of the Pattersons' property at the centre of Burke street.

No. 82, Sept. 22, '66.
Extend port warden's line.

141. The port warden's line east of Harris' creek and south of Boston street, is hereby extended to conform to the following metes and bounds: Beginning for the same at a point on the northeast line of the property owned by Jones & Ashcraft, at Canton extended, in a direct line southeasterly about 108 feet from the present port warden's line, 480 feet, more or less, from the south side of Boston street, measured at right angles thereto, and distant 100 feet from the port warden's line as now existing, measured at right angles thereto; thence southwesterly at right angles to Boston street and parallel to the present port warden's line, to a point 800 feet south of the south line of Boston street, measured at right angles thereto; thence southeasterly parallel to Boston street and 100 feet distant from the present port warden's line, measured at right angles thereto, to intersect a line parallel to that part of Boston street east of Chesapeake street, and distant 100 feet south of the present port warden's line, measured at right angles thereto; thence reversing said line and bounding thereon to the point where it would intersect the southeast line of the property owned by the Denmeads, if said southeast line extended from the present port warden's line in a direct line; thence reversing said southeast line and binding thereon northeasterly about 108 feet to the port warden's line as now established at that point.

Boundaries.

No. 15, Apl. 24, '67.
Extension of port warden's line.

142. The port warden's line at Locust Point is hereby extended to conform to the following metes and bounds: Beginning for the same at a point on the port warden's line at the easternmost intersection of Andre and Cox avenues; thence southeasterly to a point on the southeast side of Steuart avenue, prolonged two hundred and twenty feet northeasterly from the northeasternmost intersection of Steuart and Nicholson avenues; thence southeasterly, in a direct line, to a point

Boundaries.

on the southeast side of Prosser avenue, prolonged northeasterly four hundred feet from the easternmost intersection of Marriott and Prosser avenues, and thence southwesterly binding on said southeast side of Prosser avenue, prolon ed four hundred feet to the port warden's line as now established at the easternmost intersection of Marriott and Prosser avenues.

Res. No. 81, Mar. 23, '59.
Piers on Light street wharf.

143. The owner or owners of wharf property on the line of Light street are hereby permitted to construct piers upon said wharf property, from the distance of one hundred and ten feet from the southeast corner of Light and Pratt street wharves to the middle of Welcome alley, of the following form and dimensions: beginning north or south, as may best suit the convenience of the owner or owners of the aforesaid wharf property, at right angles with said Light street wharf, and extending eastward to a distance of eighty feet; thence northward or southward at right angles a distance of ten feet; thence westwardly to a point thirty feet from the place of beginning, making said piers in size and form, thirty feet base on light street wharf, eighty feet in length eastward and ten feet width of terminus; said piers in no case to exceed the aforesaid dimensions of size, but less if required, observing a similar form as aforesaid, in their construction; provided, however, that before said piers shall be erected the port warden shall first establish the location and lines thereof, agreeably to the provisions of this article relating thereto, at the cost and expense of the owner or owners erecting said pier or piers; and provided further, that the same shall be removed within six months' notice given by the mayor and city council, at expense of said owner or owners of said pier erected by virtue of this section.

Proviso.

Proviso.

No. 36, June 11, '58.
Permission to erect a pier.

144. John C. Turner and Charles F. Yardley are hereby authorized to extend a pier into the basin at their wharf, situate on Light street, between Conway and Barre streets, in the following manner: Beginning for the same at the distance of twenty feet southerly from the line dividing the wharf property of said Turner and Yardley and Harvey Row-

land, and running thence southwardly, binding on said wharf twenty-seven feet six inches, more or less, until it strikes the property of Asa Needham, and thence eastwardly by a straight line sixty feet, and thence northerly parallel with Light street six feet, and thence northwestwardly at such an angle as will intersect the beginning point of said pier at the wharf line.

Ibid, s. 2. Pier, how to be constructed.

145. The pier to be extended as provided for in the preceding section shall be a platformed pier erected on piles, so as to allow the water to flow beneath said pier; and the said Turner and Yardley shall at all times keep at least eight feet of water along said pier, twelve feet in depth for the distance of eight feet.

Ibid, s. 3. When to be removed.

146. The said Turner and Yardley, at their own cost and charge, shall remove said pier when required so to do by the mayor and city council, after having twelve months' notice given them.

No. 49, June 17, '63. Pier at Canton.

147. Permission is hereby granted to A. & W. Denmead and Son, to extend a pier or wharf from their property on the southwest side of Boston street, at Canton, to a distance of fifty-six feet beyond the port warden's line; the said pier or wharf to be constructed in accordance with the plat now on file in comptroller's office.

No. 4, Nov. 11, '64. To construct wharf beyond port warden's line.

148. D. D. Mallory & Co. are hereby authorized to construct a wharf at the dock at the foot of Lancaster street, thirty feet beyond the port warden's line, and running northwardly one hundred and forty-five feet, to intersect the eastern boundary of the old wharf known as Frazier's wharf, leaving a slip of twenty-five feet in front of Frazier's wharf, and adjoining the Canton Company's property.

No. 1, Jan. 19, '67. J. E. Tyson & Co. to extend pier at Patterson's wharf.

149. James E. Tyson and Co. are hereby authorized to extend their pier at Patterson's wharf, from the eastern end of said wharf twenty-five feet southerly, and from thence running to the port warden's line, where said line intersects the wharf at the mouth of Patterson's dock, on the eastern side of said dock, to be erected under the supervision of the port warden.

150. Silas M. Hamilton is hereby authorized and permitted to extend the southeast corner of his coal pier a distance of about eighteen feet beyond his present privilege to a point equal in distance to the adjoining pier, (the property of John W. Ross;) thence so that the point of the pier shall bear obliquely in a westernly direction a distance of forty feet or thereabout in a direct line from the said southeast corner to the extreme northwest corner of Decatur street at the port warden's line; the same to be done under the supervision of the port warden. No. 4, Feb. 8, '67. S. M. Hamilton —extension of coal pier at Locust Point.

151. The pier to be extended as provided for in the preceding section shall be a platform pier, erected on piles so as to allow the water to flow beneath the pier, and the said Silas M. Hamilton shall at all times keep at least fifteen feet depth of water for a distance of fifty feet outside of said extension. Ibid, s. 2. Platform pier. Fifteen feet of water.

BATHING.

152. It shall not be lawful for any person to swim or bathe at any time between the hours of five in the morning and eight in the evening, in any part of Jones' falls or of the basin, within the limits of the city; nor shall any person on the Sabbath day bathe or swim in the waters of Harris' creek, or on the north side of the Spring Gardens, between the hours of five in the morning and eight in the evening, under a penalty of not less than one nor more than five dollars for each offence—one-half to the informer and remainder to the city. No. 33, s. 52, R. O. Bathing within certain limits regulated. Penalty.

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ARTICLE XXIII.

HEALTH.

STATUTES.

NUISANCES.

1. Corporation to pass ordinances to preserve health of city, remove nuisances, &c.
2. Cost of paving for removal of nuisances: by whom paid.
3. Defence of owners.
4. Costs, lien on property.
5. How costs collected from non-residents.
6. Action against city by non-residents.
7. Nuisances on vacant lots, how removed, and costs paid.

CHEMICAL LABORATORIES.

8. When authorized to be erected.

SMALL POX.

9. State vaccine agency established.
10. Physician in Baltimore appointed agent: his duties and salary.
11. When physicians paid by county commissioners, &c.
12. Who to be vaccinated: penalty.
13. Penalty for using defective virus, &c.
14. Duties of parents and guardians: penalty.
15. Penalty for admitting to schools unvaccinated pupils.
16. How fines recoverable.
17. Vaccine agent to give bond.
18. Appropriation for vaccine agent.
19. Agent to procure true vaccine virus: to report to governor.

HOSPITAL.

20. Authority to establish.

STREETS.

21. Altering grade of streets for health of city.
22. Cleaning streets: dirt and filth in.

ORDINANCES.

HEALTH.

1. Board of health appointed: duties prescribed.
2. Meetings of board: record of proceedings.
3. Commissioner of health to enforce ordinances: to decide appeals.
4. Duties of assistant commissioner.
5. Duties of commissioner.
6. Marine hospital physician to attend meetings of board.
7. Police officers to execute orders.
8. Salaries of commissioner and assistant.
9. Preservation of the public health: information as to health of city.
10. Commissioner to inspect streets, &c.
11. To examine lots, &c.: notices to owners to remove nuisance: penalty for neglect, &c.
12. Nuisances, when to be removed at expense of city.
13. When commissioner may enter on premises.
14. His duty as to docks, &c.: notice to be given: penalty.
15. Draining low grounds.

16. Power to enter on lots causing nuisances: penalty for neglect to remove nuisances.
17. Notice when no owner can be found.
18. Public notice to be given when owner does not reside in city.
19. Expenses and penalty to become a lien on property.
20. Proceedings when property belongs to persons residing out of State.
21. Powers as to hydrants, &c.
22. Persons refusing to obey, shall pay expenses.
23. Cellars, &c. to be filled.
24. Frame buildings to be raised: penalty.
25. Lumber and wood yards regulated
26. Gutters to be kept clean.
27. Nauseous liquors not to be thrown in streets.
28. Filthy stables: penalty.
29. Carion, &c. to be buried: penalty.
30. Wharves, &c., how to be filled up.
31. Spars, &c. afloat, regulated.
32. Filth not to be thrown in basin, &c.: penalty.
33. Penalty for removing contents of privies without license.
34. Licenses to remove contents of privies: cost of license: bond.
35. Compensation for cleaning privies: permit.
36. When to be opened.
37. Night carts, when to be on streets.
38. How privies to be cleaned: where manure to be deposited: proviso.
39. Penalty.
40. Complaints, &c.
41. Public springs protected from encroachments of privies: vaults to be made impervious to water.
42. Commissioner to notify owners of property to remove privies, &c.: penalty.
43. Certain privies to be repaired, &c.
44. Pipes and sewers: penalty.
45. Privies not to be erected on Jones' falls: penalty.
46. Vaults under pavements.
47. Penalty: notice to fill up.
48. Persons not to deposit filth on premises, &c.: penalty.
49. Removal: penalty.
50. Outside city limits: penalty.
51. Bone dealers: proviso.
52. Persons in possession to be deemed owners.
53. When hawking oysters prohibited: penalty.
54. Fine for depositing oyster shells within city limits: how collected.
55. Unlawful to erect lime kilns: penalty.
56. Chemical preparations for roofing, or other purposes, prohibited within city limits: penalty: proviso.
57. Composition roofing: mayor's sanction: application to be published: penalty.
58. Manufacture of copal varnish prohibited: boiling, &c. bones.
59. Penalty.
60. Penalty for erecting or rebuilding distilleries, &c. within limits of city: proviso.
61. Penalty for using buildings as soap or candle factories within city limits without permission.
62. Applications for same to be published.
63. Mills used for pulverizing charcoal not to be erected without permission.
64. Penalty for erecting paint factories without certain written consent.
65. Penalty for manufacturing oil of vitriol, &c. without certain written consent.
66. Cotton wadding, &c. not to be made within direct taxation: penalty.
67. Brick kilns, &c. regulated: penalty.
68. Slaughter house, nuisance: health commissioner to report to mayor.
69. Duty of mayor: notice.
70. Penalties.

71. Penalty for keeping hogs in stys, yards, &c.: proviso: pork butchers or packers.
72. Victuallers to keep hogs: proviso: permit.
73. Health commissioner to visit premises: permit.
74. Penalty for keeping hogs without permit.
75. Penalty for adulterating milk, &c.
76. Power to send sick to hospital.
77. What damaged articles not to be brought into city: how to be removed: removal and ventilation of vessel: penalty.
78. Fish to be placed under roof: penalty.
79. Flying horses and whirligigs prohibited.
80. Potter's fields regulated: penalty.
81. Dead bodies not recognized, how disposed of.
82. Manure, &c. not to be deposited within certain limits without permission.
83. Ice ponds to be drained annually: penalty.
84. Expenses of board of health, how to be defrayed: annual statement.
85. Penalty for obstructing the board.
86. Penalty for refusing to obey orders of board.
87. Contracts for removal of garbage, &c.
88. Contracts, how to be made.

SMALL POX.

89. Appointment of vaccine physicians: their duties prescribed: record: report: vaccine crust.
90. To call at houses: duty of health commissioner.
91. Mayor's duty.
92. To act as health wardens: salaries.
93. Vaccine physicians to attend police officers wounded in discharge of duty: additional salary.
94. Vaccine physicians to grant certificates.
95. Physician refusing to grant certificate to be discharged.
96. Further duties of vaccine physicians.
97. Officers of dispensaries to preserve virus, &c.: to repeat vaccination.
98. Innoculation prohibited.
99. When board of health to fence in infected districts.
100. When mayor to convene city council.

QUARANTINE AND MARINE HOSPITAL.

101. Marine hospital: physician to be appointed: general duties: to pay over moneys; monthly reports: detailed statement of articles purchased: patients.
102. Further duties: assistant may be employed: bond.
103. Limits of quarantine: how vessels may come within limits: vessels to be boarded: within what periods: physicians' special duties: cargo: passengers: vessel not to be removed: penalty.
104. Vessels to be purified: penalty.
105. Duties of commanders, captains and pilots in regard to infectious diseases: passengers not to be landed, nor baggage, goods or effects: interrogatories to be answered: penalty.
106. What persons to be sent to hospital: baggage, &c. to be purified: communication with citizens to be prevented: penalty.
107. Expenses of purification, &c, how to be paid: expenses of maintenance of passengers under quarantine, how provided for.

108. Penalty of refusal of captain to comply with order of hospital physician: penalty upon leaving vessel without consent of hospital physician: upon going aboard vessel without consent of hospital physician: duty of board of health in cases of infectious disease: penalty upon refusal to obey orders in such cases.

109. Fees to be collected for visiting vessels: penalty upon refusal to pay same.

110. Salary of hospital physician.

111. Boatmen, &c. to be employed.

112. Charges to be paid for board, &c. at hospital: how and of whom to be collected.

113. Hospital physician to obtain supplies: to draw on register.

114. Goods, &c. to be disinfected: to be returned in good order: expenses to be paid.

115. Condition of passengers to be examined.

116. Passengers and crew to be vaccinated: all moneys to be paid to register.

117. Duty of harbor masters to report to board of health.

118. Visiting committee: duties.

119. Committee to be carried to and from hospital.

STREETS.

120. City divided into five districts: appointment of superintendents.

121. Superintendents to act as agents of corporation: their duties: ice and snow.

122. To superintend men, horses and carts: to make weekly reports to commissioner of health: register directed to pay superintendent weekly.

123. Weekly reports: examined by comptroller.

124. To notify the mayor of all offences committed.

125. Superintendents and health commissioner to sell manure, &c.

126. Bond of superintendents.

127. Power to employ additional force.

128. To employ sufficient number of horses, carts and drivers, for removal of offal, coal ashes, &c. in districts: duty of drivers of garbage carts: trumpet to be sounded: duty of house-keepers: penalty.

129. Garbage carts to have a sign and bells attached to horses.

130. Penalty.

131. Penalty for neglect of duty.

132. How carts to be covered.

133. Carts carrying offal.

134. Carts, &c. used for certain purposes to be tight.

135. Penalty for placing slop carts, &c. across footways.

136. Duty of police officers to report to health commissioner.

137. Health commissioner to make a circuit of inspection once in two weeks.

138. Pay of superintendents, their laborers, horses, carts, &c., pay for street and garbage carts.

139. Manure not to be removed: penalty.

140. Rubbish, &c. in streets prohibited: penalty.

141. Principal streets to be sprinkled and swept.

142. Market houses to be cleaned on Sunday morning.

143. Power of mayor to discharge superintendents.

STATUTES.

NUISANCES.

P. L. L., art. 4, sec. 797. Corporation to pass ordinances to preserve health of city, remove nuisances, &c.

1. The mayor and city council have power to pass ordinances to preserve the health of the city, to prevent and remove nuisances,[1] and to prevent the introduction of contagious diseases within the city and within three miles of the same, and may regulate the places for manufacturing soap and candles, the erecting of slaughter houses and distilleries, and where every other offensive trade is carried on.

Ibid, sec. 798. Cost of paving for removal of nuisances; by whom paid.

2. They may, whenever any nuisance dangerous to the health of the city shall exist in any street, lane or alley of the city, and it shall be found necessary in order to the removal of the same to have such street, lane or alley paved, order the same to be paved, and may recover the amount expended in paving the same, and the expenses of collection, from the owner or owners of the property fronting thereon, in proportion to the amount expended in front of said property, by suit against the owner or owners.

Ibid, sec. 799. Defence of owners.

3. The said owner or owners may in such action defend themselves against any such claim for expenses of paving and the collection thereof, by proof that no such nuisances existed, or that the paving of the said street, lane or alley was not necessary to the removal or abatement thereof, or that such nuisance was caused by an act or ordinance of said city or its officers in the execution of their duty.

Ibid, sec. 800. Costs, lien on property.

4. The expenses of such paving, and the expenses incident to the collection thereof, shall be a lien upon the property chargeable therewith, and when the right of the city to recover the same has been determined, the mayor and city council may levy such expenses upon said property.

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[1] As to power of city to pass ordinances to preserve the health of city, see *Harrison* v. *Mayor, &c.*, 1 Gill, 264; *Mayor, &c.* v. *Hughes' adm.*, 1 G. & J., 480. The word "power" is construed, duty and obligation. *Mayor, &c.* v. *Marriott*, 9 Md., 160; *Mayor, &c.* v. *Pendleton*, 15 Md., 12.

5. If any of said property shall be owned by persons not resident within the limits of said city, then after public notice given at least three times a week for three successive weeks in two newspapers of the city, by advertisement, describing the property chargeable, the amount of expense with which it is chargeable, and, if known, the name of the owner or owners thereof, the mayor and city council may proceed to levy said expenses upon the interest of such non-resident in said property, without any previous suit to determine their right to the same. Ibid, sec. 801. How costs collected from non-residents.

6. Such non-resident may, at any time within three months after said expenses have been levied and collected, institute an action against the mayor and city council for the recovery of the same, and if it shall appear in such action that public notice was not given as hereinbefore directed, or that no such nuisance existed, or that the paving of said street, lane or alley was not necessary to the removal or abatement thereof, or that the same was caused by any act or ordinance of the city, or by its officers in the execution of their duty, such non-resident shall recover the expenses of paving and collection so levied upon his property. Ibid, sec. 802. Action against city by non-residents.

7. Whenever any nuisance dangerous to the health of the city shall be found upon any vacant lot within the city, the mayor and city council may remove or abate the same, and shall have the same remedy against the owner of such lot for the expense of so doing as is given in the five preceding sections against the owners of lots fronting on streets paved to remove a nuisance, and the owner of such vacant lot shall have the same rights and remedies therein given to the owners of lots fronting on streets so paved. Ibid, sec. 803. Nuisances on vacant lots, how removed and costs paid.

CHEMICAL LABORATORIES.

8. No person shall erect or assist in erecting any chemical laboratory within the limits of said city without the consent of the mayor and city council, and the mayor and council may provide by ordinance for preventing the erection of any such laboratory, and for removing or preventing the use of any that shall be erected. Ibid, sec. 149. How erected.

SMALL POX.

1864, c. 269, s. 1. State vaccine agency established.

9. A State vaccine agency is hereby established, said agency to be located in the city of Baltimore, in which shall be kept at all times a supply of fresh and good vaccine virus, not more than two removes from the cow, for the use of the physicians of this State.

Ibid, sec. 2. Physician in Baltimore appointed agent.

His duties.

Salary.

Proviso.

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, to reside in the city of Baltimore, whose duty it shall be to make and renew from the cow as often as it may be necessary to keep on hand a supply of vaccine virus, not more than two removes from the cow, and to furnish such virus, to the physicians of the State when called for. He shall keep a record of the name, location and different times, qualities and quantities of virus furnished to each physician, and shall in addition to his salary be entitled to receive from the physician, twenty-five cents for each crust, or vesicle of lymph furnished in a secure and proper manner. He shall for his services as agent, receive an annual salary of six hundred dollars; provided, that it shall be competent for the governor at any time to remove said agent for neglect, incompetency or unfaithfulness of any kind, and in case of death, resignation or removal, to appoint another in his stead.

Ibid, sec. 3. When physicians paid by city council, &c.

11. For every child vaccinated whose guardian or parents are too poor to pay for the service, the county commissioners of the several counties or the city council of Baltimore, as the case may be, shall pay or cause to be paid to the physician performing the service the sum of fifty cents for every such case, on presentation of such account duly authenticated by an affidavit setting forth that the service was performed, and that the parents or guardians are unable to pay for said service.

Ibid, s. 4. Who to be vaccinated.

12. It shall be the duty of every practicing physician in this State, to vaccinate all children in the circle of his practice

which may be presented to him for vaccination within one year after birth, if such child shall be in proper condition for such service, and he shall vaccinate all other persons not previously effectually vaccinated who shall request such service from him. Any physician neglecting or refusing so to do, shall on conviction thereof forfeit and pay for every offence a penalty of five dollars. Penalty.

13. If any physician who shall knowingly and wilfully use any crust or lymph more removes than four from the cow, or 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 vaccine, or any crust which during the progress of the vesicle was punctured or sustained other injury, shall upon conviction thereof, forfeit and pay a sum not less than ten, nor more than fifty dollars. Ibid, sec. 5. Penalty for using defective virus, &c.

14. It shall be the duty of every parent or 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. 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. Ibid, sec. 6. Duties of parents and guardians. Penalty.

15. No teacher in any school shall receive into such school any person as a pupil until such person shall produce the certificate of some regular practicing physician, that such applicant for admission into the school has been duly vaccinated. Any teacher so offending shall, on conviction thereof forfeit and pay a fine of ten dollars for each offence, and no public school trustee or commissioner shall grant a permit to any child to enter any public school, without such certificate, under the same penalty. Ibid, sec. 7. Penalty for admitting to schools unvaccinated pupils.

Ibid, sec. 8. How fines recoverable.

16. All fines imposed under the provisions of this act shall be recovered before a justice of the peace, in the same manner as small debts are recoverable, for the use of the school fund of the county or city, in which such offence shall occur.

Ibid, sec. 9. Vaccine agent to give bond.

17. The vaccine agent to be appointed under the section of this act, shall give bond to the State of Maryland in the sum of twelve hundred dollars, conditioned for the faithful performance of his duties; said bond to be approved by the comptroller of the State.

1867, c. 6, s. 1. Appropriation for vaccine agent.

18. For the purpose of making more effective the above provisions, for the better protection of the people of this State against the ravages of small pox, the sum of five hundred dollars is hereby appropriated from any moneys in the treasury not otherwise appropriated, and the comptroller of the treasury is hereby authorized and required to draw his warrant for the same on the treasurer, in favor of the State vaccine agent, payable in two installments of two hundred and fifty dollars each, on the first of May and November next after the passage of this act.

Ibid, sec. 2. Agent to procure true vaccine virus.

19. The State vaccine agent is hereby required to take all steps which may be necessary to re-produce from the cow, true vaccine virus for the use of the physicians resident and practising medicine in the State, and shall furnish none more than two removes from the cow, and none which has not been produced under his own supervision and direction; provided, that he may take, use and furnish such virus, direct from the cow, furnished to him by any physician entrusted by him; and the said agent shall annually report to the governor the particulars of his expenditures, and other matters connected with the duties of his agency.

Proviso.

To report to governor.

HOSPITAL.

P. L. L., Art. 4, sec, 31. Hospitals or pest houses.

20. The mayor and city council may erect or establish hospitals or pest-houses within or without the city, if necessary, and pass all ordinances for the government of the same.

STREETS.

21. Whenever the board of health shall certify in writing to the mayor, that it is necessary for the health of the city to alter the grade of any street, lane or alley on low or made ground, the mayor shall proceed to act in the manner specified in article Streets, section 17.

P. L. L., art. 4, sec. 854. Altering grade of streets for health of city.

22. The mayor and city council have power to clean the streets and remove the dirt and filth therefrom, and to prohibit and punish by ordinance the placing of any dirt, filth or other matter therein.[1]

P. L. L., art. 4, sec. 862. Dirt and filth in streets.

ORDINANCES.

HEALTH.

1. There shall be annually appointed, as other city officers are appointed, one physician as commissioner of health, and one assistant commissioner of health, which officers, so appointed, shall constitute a board of health, whose duty it shall be to cause to be executed and observed all ordinances for the preservation of the health of the city.

No. 18, s. 1, R. O. No. 5, Febr. 28, '61. Board of health appointed: duties prescribed.

2. The said board of health shall meet daily throughout the year, and at such other times as they may be called together by the mayor; and it shall be the duty of each member of the board, at all such meetings, to report his separate official acts, which, together with the proceedings of the board, shall be accurately recorded by the commissioner of health.

Ibid, s. 2. Meetings of the board. Record of proceedings.

3. It shall be the duty of the commissioner of health to enforce all the ordinances enacted by the mayor and city council of Baltimore for the preservation of the health of the city, and to decide all appeals from the reports of the police officers or others, by a personal examination of the premises in all cases of dispute, and to keep a record of all his official acts.

Ibid, sec. 3. Commissioner to enforce ordinances. To decide appeals.

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[1] See Streets, *post*.

Ibid, s. 4. Duty of assistant commissioner.

4. It shall be the duty of the assistant commissioner of health to attend at the health office every day, except Sunday, from 8 o'clock, A. M. to 1 o'clock, P. M., and from 3 o'clock, P. M. to 5 o'clock, P. M., and for so much longer time as may be necessary to enable him properly to discharge the duties of keeping a faithful record of all matters relating to the health of the city as prescribed by this ordinance, to receive all reports from the police officers and others, as far as they relate to the duties of the health department; and in case of sickness or absence of the commissioner of health, or when so directed by the mayor, he shall perform all the duties herein assigned to the said commissioner of health.

Ibid, s. 5, No. 5, Feb. 28, '61. Commissioner's duties.

5. It shall be the duty of the commissioner of health to make a circuit of observation once in every week to every part of the city and its environs, which, from its location, or from any collateral circumstances, may be deemed the cause of disease, and in all cases where he may discover the existence of any agent, the presence of which will prove dangerous to the health of the city, he shall cause any ordinance in existence for its correction to be enforced, or if there be no ordinance competent to the correction of the evil, he shall make a full report of all the attending circumstances to the mayor, accompanied with his opinion of the necessity of extraordinary or particular action. It shall be his duty also to make diligent enquiry into all cases of malignant, infectious or contagious diseases which may occur, and cause immediate measures to be taken to arrest their progress, and generally to notice all things that relate to the preservation of the health of the city.

Ibid, s. 6. Marine hospital physician to attend meetings of board.

6. It shall be the duty of the marine hospital physician, in addition to such other duties as are hereinafter required of him, to attend at the health office, when so requested by the commissioner of health or the mayor, inform the board or mayor of anything demanding the attention of the health department, and advise with the said commissioner on all subjects particularly appertaining to the sanitary condition of the port.

7. It shall be the duty of the police officers to execute all orders of the board of health, so far as they may relate to the preservation of the health of the city. Ibid, s. 7. Police officers to execute orders, &c.

8. There shall be annually appropriated, as a compensation for the commissioner of health, the sum of fifteen hundred dollars, and for the assistant commissioner of health, twelve hundred dollars. No. 34, Apl. 24; '66; No. 28, Apl. 1, '64; No. 5. Feb. 28, '61; No. 57, Oct. 1, '58. Salaries of commissioner and assistant.

9. It shall be the duty of the commissioner of health to give to the mayor and other city authorities all such professional advice and information as they may require, with a view to the preservation of the public health; to enquire into the health of the city, and whenever he shall hear of the existence of any malignant, contagious or pestilential disease, to investigate such report, and ascertain as correctly as possible, the causes which produced said disease, to adopt measures to arrest its progress, and to report in writing to the mayor every circumstance likely to endanger the health of the city; and each practising physician in the city is hereby invited and requested, at all convenient times, to give information of the state of the health of the city to the commissioner of health, and assist and aid him with his counsel and advice, in all matters that relate to the preservation of the health of the inhabitants and the prevention of contagious diseases. Ibid, s. 14. Preservation of public health. Information as to health of city.

10. It shall be the duty of the commissioner of health to inspect, at least once in every two weeks, between the first day of March and the first day of November, in every year, and at such other periods as the mayor may direct, all the streets, lanes, alleys, wharves, warehouses, cellars, yards, lumber yards, lots and docks of the city, and all other places he may deem necessary, and make a written report to the board of health of the general state of the city, and to enforce all laws and ordinances having any relation to health, and to remove or cause to be removed all nuisances. Ibid, s. 18. Commissioner to inspect streets, &c.

11. It shall be the duty of the said commissioner carefully to inspect all lots, grounds, suspected cellars or possessions, and all streets, lanes or alleys within the city, and whenever Ibid, s. 19. To examine lots, &c.

he shall be of opinion that any cellar, lots, grounds or possessions within the city are in a state of nuisance, or so situate that in warm or unhealthy seasons a nuisance may be thereby created, and the health of the citizens endangered, it shall be his duty, and he is hereby authorized to cause a notice to be served on the owner or owners, occupier or occupiers, or his, her, or their agent, directing him, her or them to have said nuisance, or cause of nuisance removed, in the manner prescribed in such notice; and if such owner or owners, occupier or occupiers, or his, her or their agent or agents, shall neglect or refuse to comply therewith, he, she or they so refusing or neglecting, shall forfeit and pay not less than ten, or more than twenty dollars, and the further sum of five dollars for each and every day he, she or they shall continue to neglect or refuse to comply with said notice, and shall moreover pay the expenses incurred in case such nuisance or cause of nuisance shall be removed under the directions of the commissioner of health, which the said commissioner is hereby authorized to cause to be done in case of such neglect or refusal.

Notice to owners to remove nuisance.

Penalty for neglect, &c.

Ibid, s. 20. Nuisances, when to be removed at expense of city.

12. In case no agent, occupier or owner can be found on whom to serve such notice, the said commissioner is hereby authorized, after giving five days' public notice in one or more of the daily newspapers published in the city, to have any nuisance or cause of nuisance removed at the expense of the city in the first instance, and the register shall keep an account of the expenses incurred, to be recovered from the owner when ascertained and found.

Ibid, s. 21. When commissioner may enter on premises.

13. Whenever the said commissioner of health shall have cause to suspect that a nuisance exists in any house, cellar or enclosure, he may demand entry therein in the day time, and if the owner or occupier shall refuse or delay to open the same and admit a free examination, he shall forfeit and pay for every such refusal the sum of twenty dollars.

Ibid, s. 22. His duty to docks, &c.

14. Whenever the commissioner of health shall be of opinion that the navigation at any of the wharves or docks, from not being sufficiently deepened and cleaned, are in such a con-

dition that a nuisance may be created thereby, he shall cause a notice to be served upon the occupier or occupiers, agent or agents, owner or owners of any wharf or wharves, dock or docks, to deepen or cleanse the navigation at any wharf or dock in such manner as may be prescribed in such notice; and if such owner or owners, occupier or occupiers, agent or agents shall neglect or refuse to deepen or cleanse the same, each person so offending shall forfeit and pay ten dollars, and the further sum of five dollars for each and every day, he, she or they shall so neglect or refuse, and shall moreover pay the expense incurred in case the navigation of such wharf or dock shall be deepened and cleansed under the authority and direction of said commissioner, which he is hereby authorized to cause to be done on such neglect or refusal, within five days, under the superintendence of the port warden.[1]

Notice to be given.

Penalty.

15. The board of health is hereby empowered and required to substitute draining in low grounds, instead of filling them up, in all instances where, in their opinion, the draining will as effectually answer the intended purpose.

Ibid, s. 23. Drain of low grounds.

16. Whenever the commissioner of health, in proceeding to remove nuisances, shall discover that the nuisance complained of originates on an adjoining lot or lots, it shall be his duty to enter thereon, and the owner or owners, occupier or occupiers of such lots, or his, her or their agents, on neglect or refusal to remove such cause of nuisance after notice from said commissioner, shall forfeit and pay for every such neglect or refusal the sum of twenty dollars.

Ibid, s. 24. Power to enter on lots causing nuisances.

Penalty for neglect to remove nuisances.

17. If there be no owner, occupier or agent of owner, of any lot or premises upon whom such notice can be served, notice shall be deemed in all respects sufficient, if exposed in some open way upon the lot or premises to which it refers.

Ibid, s. 25. Notice when no owner can be found.

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1 As to cleaning docks by port warden with mud machine, &c., at instance of board of health, see sec. 60, p. 239, *ante*.

Ibid, s. 26. Public notice to be given when owner does not reside in city.

18. It shall be the duty of the board of health to carry into effect the provisions of the eleventh and sixteenth sections of this ordinance, and in all cases embraced within the operation of said sections, when there is no occupier of the property, and the owner or agent thereof does not reside in the city of Baltimore, to give notice in one or more of the newspapers published in the city of Baltimore, for such time as they may consider reasonable, requiring such owner or agent to remove the nuisance to be mentioned in said notice, by some day therein fixed, and that upon failure to comply with such notice, the said nuisance shall be removed under the direction of the said board of health, and that the expense of removing the same, together with the cost of such advertising, shall be a lien upon the entire property where such nuisance may be found to exist.

Ibid. s. 27. Expenses and penalty to become a lien on property.

19. After the board of health has completed the removal of nuisances in the way contemplated by the provisions of this ordinance, and the amount of penalty incurred, or the amount of expenses to which the corporation has been put by said removal shall be unpaid, the said expenses and penalty shall forthwith become a lien upon the lot or premises from which the nuisance may have been removed, and when judgment in due course of time shall have been obtained for said amount or any one of them, against the owner or owners of the premises, the property shall be sold under due legal process.

Ibid, s. 28. Proceedings when property belongs to persons residing out of State.

20. If any property chargeable as aforesaid, shall be owned by any person or persons not resident within the limits of the State of Maryland, it shall be the duty of said board to expose for sale and sell the same at public auction to the highest bidder for cash; provided, that before the said board shall proceed to sell as aforesaid, they shall give notice of such sale in three of the daily newspapers of the city, together with a particular description of the property proposed to be sold, by advertisement published twice a week for three successive weeks, and they shall deduct from the proceeds of said sale all costs, charges and expenses attendant thereon, as well as

the amount of penalties or expenses for removal of nuisances in arrear, and place the balance in the city treasury, to the credit of the owner of the ground or such other party as may be legally entitled to receive it.

Ibid, s. 29. Power as to hydrants, &c.

21. Whenever the board of health shall discover that any nuisance complained of proceeds from the leakage of any hydrant or hydrants, pipe or pipes, situated on an adjoining lot or lots, cellar or cellars, they shall have the power and they are hereby authorized to require the owner or owners, occupier or occupiers of such lot or lots, cellar or cellars, to remove the cause of such nuisance.

Ibid, s. 30. Persons refusing to obey shall pay expenses.

22. If any person shall fail to comply with the directions of the board of health, the said board shall have power, and they are hereby authorized and empowered to cause any nuisance or cause of nuisance to be removed, the cost whereof to be paid by said person.

Ibid, s. 31. Cellars, &c. to be filled.

23. All cellars and vacancies under stores, warehouses and dwellings, upon made ground, shall when deemed necessary by the board of health, be filled up with sound materials and paved with hard bricks or stones; and when deemed expedient by the said board, the lots thereto appertaining shall be filled up above the level of the street, so as to prevent the lodgment of water on the premises.

Ibid, s. 32. Frame buildings to be raised.

24. All wooden buildings that are now or may hereafter be below the level of the brick pavements or streets, shall be raised up and underpinned with brick or stone, and all persons refusing or neglecting to obey the directions of the board of health in the premises, shall forfeit and pay a penalty not exceeding twenty dollars, and five dollars for each and every day during the continuance of such neglect or refusal; provided, he, she or they, receive one month's notice from the board of health to complete the same.

Penalty.

Proviso.

Ibid, s. 33. Lumber and wood yards regulated.

25. All lumber and wood yards within the limits of the city of Baltimore, shall be raised and graded in such a manner that water will not stand therein, and that the lumber or wood placed in said yards shall be raised at least twelve inches

above the surface of the ground, so that the air may circulate freely under such lumber or wood, and it shall be the duty of the assistant commissioner of health to cause a copy of this section to be served on the owner or owners, or his, her or their agent, and on the occupier or occupiers of any lumber or wood yard in this city on or before the first day of April, in each and every year, and every owner or occupier of any lumber or wood yard, after being served with a copy of this section, shall comply with the requirements thereof on or before the first day of June, in each and every year; and every person neglecting or refusing so to do, shall forfeit and pay a sum not exceeding fifty dollars, and for every twenty-four hours he, she or they shall neglect or refuse to comply with the same, a further sum of ten dollars.

Penalty.

Ibid, s. 34. No. 35, May 2, 62. Gutters to be kept clean.

26. It shall be the duty of each and every occupier of any house, or owner of any lot within the limits of direct taxation, fronting a paved street, lane or alley, to keep the gutter in front of said house or lot, clean at all times during the months of April, May, June, July, August, September and October, and each and every person herein offending, shall forfeit and pay for each offence one dollar, notice having first been given to said person.

Penalty.

Ibid, s. 35. Nauseous liquors not to be thrown in streets.

27. If any person shall cast or throw, discharge or cause to flow into any of the streets, lanes or alleys of this city, any blood or foul or nauseous liquor, or other liquid or offensive matter which is likely to become a source of nuisance after exposure to the atmosphere, or shall keep, collect, use or suffer to remain on his or her premises any nauseous liquor, stagnant water or other offensive matter, he, she or they so offending shall forfeit and pay for each and every such offence a sum not exceeding twenty dollars.

Ibid, s. 36. Filthy stables.

28. If any person having a cow or cows, horse or horses, in any stable within the city, shall keep the same in such manner that the filth and stench therefrom shall become offensive to or annoy any neighbor or other person, the person keeping such cow or horse as aforesaid, shall forfeit and pay for every such offence five dollars, and the further sum of

Penalty.

five dollars for each and every day the nuisance shall be suffered to remain, notice having first been given to the party offending.

29. No person shall cast, throw, draw out or deposit any dead carcass, or any part or parts thereof, dead fish, or any excrement or filth from vaults or privies, necessary houses or water-closets, on or into any part of the city, nor shall any person permit the same to be deposited on his or her premises without effectually covering the same within five hours after such deposit, with and under such a body of earth as will and shall entirely prevent any noxious effluvia or any offensive smell arising from the same, under a penalty not exceeding twenty dollars for each and every offence, together with the expense of removing the same. Ibid, s. 39. Carion, &c. to be buried. Penalty.

30. Neither the wharves or low grounds in any part of the city shall be filled with any kind of wood shavings or vegetable matter, and every person offending herein shall forfeit and pay for each and every offence a sum not exceeding fifty dollars. Ibid, s. 40. Wharves, &c. how to be filled up.

31. All spars, arks, logs or timber that may be in the water of the harbor of Baltimore, between the first day of June and the first day of November in each and every year, shall be kept constantly afloat; and whenever the commissioner of health shall suspect that any injury to the health of the city may arise therefrom, he shall order the same to be removed to some place which shall be distant at least two hundred yards from any dwelling or wharf; and every person offending against this section shall forfeit and pay a sum not exceeding twenty dollars, and the further sum of ten dollars for each and every twenty-four hours that such offence may continue. Ibid s. 41. Spars, &c., afloat regulated

32. No person shall throw any animal or vegetable matter or filth into the basin, docks, Jones' falls, or Harford, Chatsworth or Schroeder's runs, or drive or ride any horse or animal into Jones' falls, east of Charles street; and all persons offending herein shall, for every such offence, forfeit and pay a sum not exceeding ten dollars—one-half of such fine to be paid Ibid. s. 42. No. 35, May 2, 62. Filth not to be thrown in basin &c. Penalty.

to the informer, and the other half to the city, provided notice be first given to the party offending.

Ibid, s. 43, No. 6, Dec. 13, '67. Penalty for removing contents of privies 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.

Ibid, s. 44, No. 6, Dec. 13, '67. License to remove contents of privies.

34. Every person desirous of being licensed to empty or remove the contents of privy wells and sinks, shall make application in writing to the comptroller, who, after conference with the board of health, on being satisfied with the character of the applicant, and the security and tightness of his cart or carts, and that he is the owner of such horses and cart or carts, as represented in his application, and that he is not in collusion or combination with others to defraud the corporation, may grant him a license for one year, and renew the same from time to time, and for such license so granted and for each renewal of the same, he shall pay therefor to the register the sum of two and a half dollars for each and every cart; and every person so licensed shall give bond to the city, with security to be approved by the register, in the penal sum of five hundred dollars, conditioned for the faithful performance of all the duties enjoined by this ordinance, and the comptroller, upon complaint of the health commissioner, may revoke or suspend any such license.

Cost of license.

To give bond.

Ibid, s. 45, No. 6, Dec. 13, '67. Compensation for cleaning privies.

35. The board of health shall fix the compensation for cleaning privies, and no person shall have a privy or privies cleaned without first obtaining a permit from the commissioner or assistant commissioner of health, who are hereby required to grant permission to any person applying for the same; and any person emptying or cleaning any privy or privies, or having the same done without first applying for permission as above, shall, in either case forfeit and pay a sum not exceeding twenty dollars for each and every offence.

Permit.

36. If any person shall open or clean any vault or privy, or cause the same to be opened or cleaned, between the first day of June and the first day of October, without permission of the commissioner of health, such person shall forfeit and pay twenty dollars. Ibid, s. 46. When to be opened.

37. No cart or other vehicle used to empty and clean privies within the limits of the city shall be driven through any street, lane or alley in the city of Baltimore, from the fifteenth day of April to the first day of October, inclusive, before eleven o'clock P. M. or after four o'clock A. M., and from the second day of October to the fourteenth day of April, inclusive, before ten o'clock P. M. or after five o'clock A M., under a penalty of twenty dollars for each and every offence, said penalty to be recovered from the owner or driver of said cart or other vehicle, as other fines and forfeitures are now recoverable. Ibid, s. 47, No 5, Feb. 10, '63. Night carts, when to be on streets. Penalty.

38. No person shall drain any privy, but all privies shall be throroughly cleaned out; and the board of health is hereby authorized and directed to select, from time to time, such place or places as they may deem suitable for the deposit of night manure; provided, permission shall first be obtained from the owner or occupier of the premises, and no objection be made by the owners or occupiers of the ground within six hundred feet of the place upon which it is intended to deposit said night manure; and provided further, that such place or places shall first be deemed by the board of health not prejudicial to the health of the surrounding inhabitants. No. 18, s. 48, R.O. How privies to be cleaned. Where manure to be deposited. Provisos.

39. No night manure shall be deposited at any place within the city limits, except such as shall be selected by the board of health as hereinbefore provided, and any person or persons offending against the provisions of this section shall forfeit and pay a sum not exceeding twenty dollars. Ibid, s. 49. Penalty.

40. If such deposits shall prove prejudicial to the health of the adjacent neighborhood, complaint shall be made by the aggrieved parties to the board of health, who, with the Ibid, s. 50. Complaints, &c.

approbation of the mayor, shall order said deposits to be forthwith suspended.

No. 18, s. 51, R. O.
Public springs protected from encroachment of privies.

41. The vault or well of every privy which shall be erected within the following limits, that is to say: for the city spring in Calvert street, bounded on the north by Mulberry street, on the west by North Charles street, on the south by Lexington street, and on the east by North Calvert street; for the city spring at the corner of Pratt and Eden streets, bounded on the west by Eden street, on the south by Pratt street, on the east by Caroline street, on the north by Baltimore street; and for the public spring in Franklin square, bounded on the north by Lexington street, on the west by Calhoun street, on the south by Fayette street, and on the east by Carey street; and for the public spring in Union square, bounded on the north by Hollins street, on the west by Gilmor street, on the south by Lombard street, on the east by Stricker street; and for the pump called the Green Tree pump, bounded on the north by Granby street, on the west by Albemarle street, on the south by Stiles street, and on the east by Exeter street; and for the spring from which the Centre market is supplied, bounded on the north by Monument street, on the west by North Charles street, on the south by Centre street, and on the east by North Calvert street—shall be built and floored with sound and well burnt brick, at least one foot thick at the bottom, and the walls not less than nine inches thick, with a cement impervious to water, and shall not exceed six feet in depth, and shall be puddled with clay, rammed compactly at the bottom and on all sides of every such privy at least one foot thick; and it shall be the duty of every person, previous to erecting or causing to be erected, any privy within the limits aforesaid, to call on the commissioner of health, and have the same erected agreeably to his directions, and to obtain from him a certificate in writing, that such privy is conformable to this section, before the same shall be used, and such privies shall be kept at all times in the like complete repair.

Vaults to be made impervious to water.

42. It shall be the duty of the health commissioner to give notice to the owners or occupiers of the property within the boundaries mentioned in the preceding section, upon which privies or dung vaults are now constructed in a manner different from that above provided for, to have them removed, altered or repaired, as may be judged necessary by said commissioner; and any one who shall refuse or neglect, for sixty days after the receipt of such notice, to cause them to be removed, or shall offend against the provisions of the preceding section, shall forfeit and pay the sum of twenty dollars, and five dollars per week thereafter until the provisions of said section be complied with. Ibid, s. 52. Commissioner to notify owners of property to remove privies. Penalty.

43. If the commissioner aforesaid shall be of opinion that the state or condition of any privy erected within the limits prescribed by section 41, is such as to be likely to injure or corrupt the waters of any of the said springs or pumps, in that case he is hereby required to order and direct the owner or owners of such privy to clean out and repair and otherwise secure the same, within twenty days after such order has been given, under the penalty of fifty dollars, and the further sum of ten dollars for every week such refusal or neglect shall be continued. Ibid, s. 53. Certain privies to be repaired, &c.

44. If any person or persons shall introduce a pipe or sewer into any of the wells belonging to the city, for the purpose of draining water closets, or for any other purpose whatever, each and every person, for each and every such offence, shall forfeit and pay a sum not exceeding twenty dollars, one-half to be paid the informer and the other half to be paid into the city treasury. No. 63, May 26, '66. Pipes and sewers. Penalty.

45. If any person or persons shall erect, or cause to be erected, any privy or other building over any wharf or wall, or over the bed of Jones' falls, or Harford, Schroeder's or Chatsworth runs, or suffer the contents of any privy to flow into the aforesaid streams by means of a sewer or otherwise, within the limits of the city, so that the filth therefrom be discharged into the said falls or either of said runs, such No. 18, s. 54, R. O. Privies not to be erected on Jones' falls.

Penalty.

person or persons shall forfeit and pay, for each and every such offence, the sum of twenty dollars, one-half to the informer and the remainder for the use of the city.

No. 58, July 17, '60.
Vaults under pavements.

46. It shall not be lawful for any person or persons to sink or cause to be sunk any vault or well to be used for a receptacle of a privy, under the bed of any street, lane or alley in the city of Baltimore, or the sidewalks thereof.

Ibid, s. 2.
Penalty.

47. If any person or persons shall sink or cause to be sunk under the pavement of any street, lane or alley, or the sidewalks thereof, any vault or well, and use the same as a receptacle for a privy, such person or persons so offending shall forfeit and pay the sum of one hundred dollars, to be recovered as other fines and forfeitures are now recoverable; and if the same be not filled up and properly secured after
Notice to fill up.
twenty days' notice from the commissioner of health, such person or persons shall forfeit and pay for every week thereafter until the said vault shall be filled up and secured to the satisfaction of the said commissioner, the sum of twenty dollars—one-half of said fines to go to the informer and the
Duty to enforce.
balance to the city's use; and it shall be the duty of the commissioner of health to enforce the provisions of this section.

No. 50, May 22, '61.
Persons not to deposit filth on premises, &c.

48. No person or persons shall be allowed to deposit upon his or her premises, or any other premises or lot, within the limits of direct taxation, the cleanings of any slaughter house, fish dealer's house or yards, or any other branch of trade, making filth, for any purpose whatsoever, nor shall any person or persons be allowed to receive or deposit upon his or her premises, within direct taxation, any dead animal or part or parts thereof, or green bones, or any other offensive articles, under a penalty of not less than five dollars, nor more
Penalty.
than twenty dollars for each and every offence.

Ibid, s. 2.
Removal.

49. No person or persons shall be permitted to remove any such things, enumerated in the preceding section, from his or her premises, to any other premises within direct taxation,
Penalty.
under a penalty of five dollars for each offence, one-half to the informer, the remainder for the use of the city.

50. Any person or persons living outside of the city, who shall bring any of the filth heretofore mentioned, and deposit the same on any premises within the limits of direct taxation, shall be subject to a fine of five dollars. Ibid, s. 3. Outside city limits. Penalty.

51. The preceding three sections shall not be so construed as to prohibit dealers in bones from purchasing the same, and depositing the same on such premises as the said dealers may occupy and use for that purpose; provided, however, that green bones, or such as have flesh or fatty matter on them, shall not be kept by any dealer in them having his place of deposit within the limits of direct taxation, longer than twelve hours. No. 63, Sept. 30, '67. Bone dealers. Proviso.

52. Whenever any person or persons shall be in actual possession of, or have the charge, care or control of any property within the city, as executor, executrix or executors, administrator, administratrix or administrators, trustee or trustees, guardian or guardians, agent or agents, such person or persons shall be deemed and taken to be the owner or owners of such property, within the true intent and meaning of the several ordinances of the city, and shall be bound to remove all nuisances from such property, and to comply with all the provisions of any ordinance of the city in relation to the health of the city, so far as the same may affect such property, in the same manner, and under the same penalties, fines and forfeitures, as if such person or persons were actually the owner or owners of such property, and notice to any such person or persons of any order of the board of health, shall be deemed and taken to be as good and sufficient notice as if such person or persons were actually the owner or owners of such property. No. 18, s. 55, R. O Persons in possession to be deemed owners Notice.

53. It shall not be lawful for any person or persons to hawk or peddle oysters through any of the streets, lanes or alleys of the city of Baltimore, from the first day of June to the fifteenth day of September, in each and every year, and for any violation of the provisions of this section, the person or persons so offending, shall forfeit and pay a penalty of Ibid, s. 55. No. 38, May 9, '63; No. 75, Sept. 4, '60; No. 44, Sept. 23, '58. When hawking oysters prohibited. Penalty.

twenty dollars, to be recovered as other fines and forfeitures are now recoverable.

No. 97, Oct, 27, '64.
Fine for depositing oyster shells within city limits.

54. Any person who may have deposited or who may deposit oyster or clam shells in any public square, place, street, lane, alley or elsewhere, within the limits of the city of Baltimore, or cause the same to be done, and shall fail to remove them when directed by the board of health, shall forfeit and pay the sum of twenty dollars for each and every day the same shall remain in such place, after having received ten days' notice; and the amount so forfeited shall be collected as all other fines are.

Ibid, s. 2.
Unlawful to erect lime-kilns.
Penalty.

55. It shall not be lawful for any person or persons to erect within the limits of the city, any lime kiln for the purpose of burning oyster shells or stone lime, under a penalty of fifty dollars for each and every offence, and twenty dollars for each and every day any lime kiln, erected in violation of this section, shall remain in use.

No. 18, s. 60, R. O.
Chemical preparations for roofing or other purposes prohibited within city limits.

56. It shall not be lawful for any person or persons to manufacture, grind or prepare any chemical or mechanical preparation for roofing or other purposes within the limits of the city of Baltimore, whereby a nuisance is created, or likely to be created injurious to the health of any person or persons residing in such neighborhood where such articles shall be manufactured, ground or prepared; and it shall be the duty of the commissioner of health, whenever complaint shall be made to him of the existence of any such nuisance, to examine into the same, and if a nuisance really exists, injurious to the health of the neighborhood, or whenever he shall be aware of the same, to give notice to the person or persons offending against the provisions of this section, to abate said nuisance within twelve hours after said notice shall be received; and any person or persons who shall violate the provisions of this section, shall pay a fine of twenty dollars, and a further fine of ten dollars for each day they shall continue to violate the same, after he or they shall receive the aforesaid notice—one-half of the fine to be paid to the informer, and the remainder into

Penalty.

city treasury; provided, that nothing herein contained shall be deemed, taken or construed so as to prevent the heating of any chemicals used in roofing, at the time and place said chemicals are to be used as aforesaid. Proviso.

57. It shall not be lawful for any person or persons to erect, establish, rebuild, or continue in use, any composition roofing manufactory of any kind whatever within the limits of the city, without first obtaining the sanction of the mayor and city council, and ten days' notice immediately preceding the application to the mayor and city council, shall be given by at least four insertions in two or more of the daily papers of the city, setting forth the purpose of said application, the street, lane, alley or court and square of ground on which the establishment is to be put up, and every person or persons violating this ordinance, shall be subject to the penalty of twenty dollars, and ten dollars for each and every day the same shall remain thereafter, to be recovered as other fines are now recoverable. No. 24, May 12, '60. Composition roofing. Mayor's sanction. Application to be published. Penalty.

58. It shall not be lawful for any person or persons to erect, establish or rebuild any distillery for the manufacture of copal varnish, nor any factory for the boiling or grinding of bones within the limits of the city of Baltimore, without having first obtained the consent of the mayor and city council. No. 52, s. 1, Sept. 30, '58. Manufacture of copal varnish prohibited. Boiling &c. bones.

59. For a violation of any of the provisions of the preceding section, the party or parties so offending shall forfeit and pay a fine of twenty dollars for each and every offence, and twenty dollars a day for every day it may remain in operation after the first offence; said fines to be recovered as other fines and forfeitures are now recoverable, one-half to the city and the other half to the informer. Ibid, s. 2. Penalty.

60. No person or persons shall erect, establish or rebuild any distillery[1] of spirits of turpentine or varnish, or any manufactory of earthenware or of stoneware, or carry on in any No. 33, s. 24, R. O. Penalty for erecting or rebuilding distilleries &c. within limits of city.

[1] When one of above factories was injured by fire, and its business stopped; held to be a question of fact whether it was rebuilt or repaired: if the destruction was so great as to require the house in which it was carried on to be re-built, it would come within above prohibition. *Glenn* v. *Mayor, &c.*, 5 G. & J., 424.

building, erection or place, which shall not have been already legally used for such distillation or business, and for no other purpose at any intervening time, the distilling of any spirits of turpentine or varnish, or the business of manufacturing earthenware, or stoneware, or boiling bones, within the limits of the city, under the penalty of two hundred dollars, and the further sum of five dollars for each and every day of the continuance of such distillery or manufactory, or of the so carrying on of such distillery or business; provided, however, that in those cases in which the consent, in writing of all the holders of property within six hundred feet is first had and obtained, it shall be lawful for the board of health, at their discretion, with the approbation of the mayor, to grant special leave for the erection or carrying on of the establishments mentioned in this section, without the limits of direct taxation.

Proviso.

Ibid, s. 25. Penalty for using buildings as soap or candle factories within city limits without permission.

61. It shall not be lawful to erect or use any house or building as a soap or candle manufactory within the limits of the city, without the consent of the mayor and city council, under the penalty of two hundred dollars, and a further sum of fifty dollars for each and every month thereafter until the same be removed out of said limits, or pulled down.

Ibid, s. 26. Applications for same to be published.

62. All applications for permission to erect soap or candle manufactories, shall be published three times a week, in two or more daily papers in the city, two weeks previous to making such application; all expenses of such publication to be paid by the party or parties making such application.

Ibid, s. 27. Mills used for pulverizing charcoal not to be erected without permission.

63. No person or persons shall erect, establish or rebuild within the limits of direct taxation, any mill that is used for the purpose of pulverizing charcoal, without first obtaining the permission of the mayor and city council, under a penalty of twenty dollars for each and every week it shall so remain.

Ibid, s. 28. Penalty for erecting paint factories without certain written consent

64. It shall not be lawful for any person or persons or any corporation, to erect or establish any manufactory of red or yellow ochre, or any other kinds of earth of which red or yellow paint is made, within the limits of the city, unless by un-

animous consent, in writing, of the persons holding property within two hundred yards thereof, under the penalty of one hundred dollars, and a further sum of twenty dollars for each and every day thereafter, until the said manufactory be removed.

Ibid, s. 29. Penalty for manufacturing oil of vitriol, &c. without certain consent.

65. It shall not be lawful for any person or persons or incorporated company to manufacture or prepare, except in chemical laboratories already established, the following articles, or any of them, to wit: oil of vitriol or sulphuric acid, nitric acid or aqua fortis, muriatic acid, crude ammonia, ivory black, alum, chloride of lime or bleaching salts, pigments of lead, or any other manufacture or preparation, in the process of which it is necessary to burn horns, blood, bones, or other animal substances, within the limits of the city, unless the consent, in writing, of all the holders of property within six hundred feet of such manufactory be first had and obtained, under a penalty of twenty dollars for every day during which such manufacture or preparation shall continue. Penalty.

Ibid, s. 57. Cotton wadding, &c. not to be made within direct taxation.

66. It shall not be lawful for any person or persons to erect or establish, within the limits of direct taxation any manufactory for the manufacturing of cotton wadding, cotton laps or bats; and any person or persons violating this section shall be subject to a penalty of ten dollars, and a further sum of five dollars for each and every day such violation shall continue. Penalty.

Ibid, s. 30. Brick kilns, &c. regulated.

67. It shall not be lawful for any person or persons to prepare or mould any clay or any other substance, for or to make or burn any brick or tile, or any similar manufacture within the limits of the city, without first obtaining the permission of the mayor and city council, and giving ten days' notice of his or their intended application for such permission, by at least four insertions in two or more of the daily newspapers of the city, specifying the lot of ground or premises on which said clay or other substance is to be prepared or moulded, or such brick is to be made or burned; and every offender against the provisions of this section shall forfeit and pay the sum of one Penalty.

hundred dollars for the first offence, and the further sum of twenty dollars for each and every day thereafter, during the continuance of such preparing or moulding, making or burning.

No. 67, s. 1, May 13, 64. Slaughter house nuisance.

68. Should complaint be made to the health commissioner by six of the property holders or heads of families within six hundred feet of any slaughter-house, that such slaughter-house is a nuisance, affecting the health of the neighbors or the value of property in the vicinity, it shall be his duty to examine the place, and if he shall think the complaint well founded, to report the case to the mayor, and also to report to him under what resolution or ordinance of the mayor and city council the slaughter-house was erected.

Health commissioner to report to mayor.

Ibid, s. 2. Duty of mayor.

69. If the mayor shall agree with the health commissioner that the slaughter-house is a nuisance, and it shall have been erected under any resolution or ordinance providing that it shall be removed upon notice from the mayor, he, the mayor, shall immediately give the notice required by such resolution or ordinance; but if the slaughter-house shall not have been erected under a resolution or ordinance containing such a provision, the mayor shall take steps to have such nuisance proceeded against at common law.

Notice.

Ibid, s. 3. Penalties.

70. No slaughter-house shall hereafter be erected within the limits of the city under the 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. 63, s. 3, R. O. Penalty for keeping hogs in stys, yards, &c.

71. It shall not be lawful for any person or persons to keep any hog or hogs, in any sty or yard, or elsewhere on their premises within the city of Baltimore, under a penalty of not less than one dollar, nor more than five dollars, for each and every day each and every hog may be kept in any sty or yard or elsewhere on such premises within said limits; provided, however, that the provisions of this section shall not apply to hogs brought to the city for the purpose of sale or slaughter, whether in the possession of parties bringing them to the city

Proviso.

for sale or slaughter, or in the possession of any agent of such parties, or in the possession of a resident pork butcher or packer, when penned in any of the enclosures attached to the Maryland State live stock scales. This provision of exemption from the conditions of this section, however, not to be construed to allow any resident pork butcher or packer to keep any hogs about their premises for any purpose other than for slaughter, and for the purpose of slaughter for no longer a period than ten days from the time of the first receipt of said hogs.

Pork butchers or packers.

No. 100, s. 1, Oct. 18, '60.

72. It shall be lawful for any victualler, a resident of the city of Baltimore, to keep on his, her or their slaughter-house premises, to run at large thereon only, such number of hogs as may be deemed requisite to consume the offal from his, her or their slaughter-house; provided, said victualler shall first procure a permit so to do from the board of health.

Victuallers to keep hogs.

Proviso.

Permit.

Ibid, s. 2.

73. It shall be the duty of the health commissioner, when application shall be made to him by any victualler for permission to keep hogs on his, her or their premises, to visit the said premises, and if, in his judgment, the keeping of a certain number of hogs upon the same shall not create a nuisance, or be detrimental to the health of the contiguous neighborhood, then he shall give a permit, as is provided for in the preceding section, said permit to be good for twelve months, unless sooner revoked by him.

Health commissioner to visit premises.

Permit.

Ibid. s. 3.

74. Any person or persons who shall keep hogs upon their premises, without first having had and obtained a permit so to do, as provided for in the preceding two sections, shall forfeit and pay a fine of twenty dollars for every violation, and five dollars for every day such violation is continued, to be recovered as other fines and forfeitures are now recoverable.

Penalty for keeping hogs without permit.

No. 18. s. 57, R. O.

75. It shall not be lawful for any person or persons to adulterate milk offered for sale or sold within the limits of the city of Baltimore, by mixing therewith water, chalk or any drug or other articles whatsoever, under a penalty of not less than twenty dollars for each and every offence; and any

Penalty for adulterating milk, &c.

person or persons who shall sell or offer for sale any milk of a diseased cow within the limits of the city, shall pay a fine of twenty dollars for each and every offence.

Ibid, s. 58. Power to send sick to hospital.

76. Each member of the board of health shall have ful power and authority to give an order for the reception of any person affected with a contagious disease, dangerous to the community, into the marine hospital.

Ibid, s. 59. Certain damaged articles not to be brought in city.

77. It shall not be lawful for any person or persons, knowingly, to bring, or cause to be brought into the city, any damaged coffee, hides, rice or any other article which, by its nature, is liable to produce disease, at any time between the first day of May and the first day of November, in each and every year, under a penalty of one hundred dollars; and it shall be the duty of the mayor and each member of the board of health, whenever any article shall have been brought into the city, to cause a written notice to be served on the person or persons having the same under his, her or their charge, to have the same forthwith removed to such place as may be directed in such notice, and shall likewise order that the vessel (if any) bringing the same be removed within six hours after the delivery at said place, to the quarantine ground, there to remain until cleansed and ventilated to the satisfaction of the marine hospital physician, and any person or persons refusing or neglecting to comply with the directions prescribed in the notice, either of the mayor or of any member of the board of health, shall forfeit and pay a fine of one hundred dollars for each and every offence, and twenty dollars for each and every hour such neglect shall continue.

How to be removed.

Removal and ventilation of vessel.

Penalty.

No. 33, s. 40, R. O. Fish to be placed under roof. Penalty.

78. All fish kept in the city shall be placed under a roof within twenty-four hours after landing and inspection, and kept under cover, under a penalty of one dollar a barrel for each and every day the same may remain on the streets or wharves of the city.

Ibid, s. 50. Flying horses, &c. prohibited.

79. It shall not be lawful for any person or persons to have on his, her or their premises, and let, hire or use for public amusement, any flying horse or horses or whirligig, or other

similar machinery or device for public amusement, by whatever name it may be called; and every person or persons offending in the premises shall forfeit and pay for each offence the sum of twenty dollars.

No. 18, s. 64, R. O. Potter's fields regulated.

80. The Potter's fields[1] of the city of Baltimore are hereby placed under the control and direction of the board of health, who are hereby authorized, with the advice and consent of the mayor, to establish a code of regulations relative to all interments in said Potter's fields, which in their judgment may be proper and necessary; provided, that all graves which may be dug in the Eastern and Western Potter's fields, shall be of the depth of at least four feet six inches, and any grave digger, or other person or persons employed for such purpose, who shall neglect or refuse to dig any such grave of the said depth, shall forfeit and pay, for each and every offence, the sum of ten dollars; and if the grave digger or any other person or persons employed by the board of health, shall at any time omit or neglect to lock or close the gates, he or they shall, for each offence, forfeit and pay the sum of two dollars, to be deducted out of any money due him or them for dig-

Proviso.

Penalty.

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1 See *Williamson* v. *Mayor*, &c., 19 Md., 413, for a proceeding to sell a lot of ground held by the city on a special trust created by deed as a place for the sepulture or burial of the poor and strangers dying within the city.

By ord. No. 41, June 13, '60, the finance commissioners were directed to sell the ground known as the Western Potter's field, and with the proceeds, or so much thereof as might be necessary, to purchase a suitable site for a Potter's field, beyond the limits of the city, and in a westwardly direction.

It further provides that the commissioners of finance shall cause to be erected at some suitable spot within the inclosure of the new Potter's field, a dead house, or vault above ground, to be used for the keeping of the stranger or unrecognized dead, and that it shall be the duty of the sexton of said Potter's field to keep in said vault or dead house all such dead bodies until ordered to inter them by the board of health; and that it shall be the further duty of the sexton to cause the vault or dead house to be opened, at any time, for the inspection of any body or bodies therein contained.

The board of health were directed to have the bodies deposited in the old Western Potter's field, removed to a mausoleum in the Potter's field in this ordinance authorized to be purchased.

By ord. No. 79, approved May 6, 1859, the commissioners of finance were authorized to sell at public or private sale the ground belonging to the city known as the old Eastern Potter's field.

ging graves or otherwise, and in case no money shall be due him or them, the said fines shall be recovered and collected as other fines are, in the name of the mayor and city council of Baltimore.

Ibid, s. 66. Dead bodies not recognized—how disposed of.

81. Upon the erection of a suitable house for the purpose, all dead bodies which may be found and not recognized within the limits of the city, shall be placed therein for such length of time as the board of health may deem necessary; and it shall be the duty of the police officers in each district to have all dead bodies, unclaimed, removed thence, and if not recognized, properly buried under the direction of the board of health.

Ibid, s. 65. Manure, &c., not to be deposited within certain limits without permission.

82. It shall not be lawful for any person or persons to deposit on any lot within the limits of direct taxation in the city of Baltimore, any manure or nuisance of any kind, without the consent of the property holders adjoining said lot be first procured and filed in the office of the board of health, under the penalty of five dollars for each and every offence, and five dollars for each and every day said nuisance may remain, to be recovered as other fines and forfeitures for violations of city ordinances.

Ibid, s. 67. Ice ponds to be drained annually.

83. The board of health are hereby directed to cause the owners or occupiers of all ice ponds within the city limits to have the same drained annually, and keep them thoroughly drained from the first of May to the first of November, after which time, and not earlier, the said ponds may be filled, under a penalty of fifty dollars for each and every violation of this section, and a further penalty of twenty dollars for each and every day such violation shall continue.

Penalty.

Ibid, s. 61. Expenses of the board, how to be defrayed.

84. All necessary expenses incurred by the board of health in the discharge of duties herein required, shall be defrayed by the corporation, and the commissioner of health may, with the consent of the mayor, draw on the register of the city, from time to time, for such sums as may be required to carry into effect the duties herein enjoined upon the board, and he shall immediately thereafter lay a detailed statement of his

Annual statement.

accounts before the mayor and comptroller, and annually before the city council.

85. If any person shall knowingly obstruct or resist the board of health, or any member thereof, or any person by them appointed, in the execution of the powers to them given, or in the performance of the duties enjoined on them by this or any other ordinance in relation to the public health, such person shall forfeit and pay a sum not exceeding two hundred dollars. Ibid, s. 62. Penalty for obstructing the board.

86. If any person or persons shall refuse or neglect to comply with any order or notice of the board of health, authorized by any of the sections of this article, and no other penalty is herein provided for such neglect or refusal, such person or persons shall forfeit and pay the sum of twenty dollars for each offence, and five dollars for every day that such neglect or refusal shall continue. Ibid, s. 63. Penalty for refusing to obey orders of board.

87. The commissioner of health and the mayor are hereby authorized and directed to contract with such person or persons as they may select, and on such terms as may prove most advantageous to the city, and subject to such conditions and stipulations as they shall approve, for the removal and transfer beyond the limits of the city of Baltimore of all night manure, garbage, dead animals and decaying and decayed animal and vegetable matter found within the limits of the city of Baltimore. No. 36, Apl. 24, '66. Contract for removal of garbage, &c.

88. All and any contracts made in pursuance of any provision contained in this article, or any contract or contracts made by the board of health or quarantine physician, shall be made in strict conformity with the requirements of sections 69 to 72 of article I, City Charter. No. 18, s. 68, R. O. Contracts, how to be made.

SMALL POX.

89. There shall be annually appointed, as other city officers are, a vaccine physician for every two contiguous wards, who shall be a resident of one of the wards for which he may be appointed, if practicable, who shall vaccinate in his ward No. 18, s. 9, R.O. No. 80, June 9, '64; No. 79, May 12, '59. Appointment of vaccine physicians.

all such persons as may be pointed out to him by any member of the board of health, as susceptible to small pox contagion, and whose duty it shall be to visit each dwelling-house in the wards, and vaccinate every person who may be presented to him for that purpose, and to be prepared at his office, at such hours as may be designated by the commissioner of health, to vaccinate all who may there call on him that are residents of said wards, requiring that operation; and said physician shall enter upon the performance of the duties prescribed by this section immediately after his appointment. And it shall be the further duty of the several vaccine physicians to keep a record of the names, age and residences of all whom they may vaccinate or re-vaccinate, and report the same monthly, under oath or affirmation, to the board of health, and to preserve, at all times during their term of office, all pure vaccine crust which may come into their possession, and deposit it at the health office once a month, carefully enveloped and marked with the date at which it was taken from the arm; and it shall further be their duty to report monthly to the board of health the names of all persons who shall refuse to suffer themselves or members of their household to be vaccinated, when the same shall be necessary.

Duties prescribed.

No. 80, June 9, '64.
To call at houses.
Duty of health commissioner.

90. Before the vaccine physicians shall receive their first quarter's salary, the commissioner of health shall be satisfied that they have called at one-fourth of the houses in their respective wards, and the second quarter's salary shall not be paid until one-half of the houses have been visited, and so on through the year, and a proper return of the same made; their salaries only to be paid on the endorsement of the commissioner of health.

Ibid, s. 3.
Mayor's duty.

91. The quarter's salary of the commissioner of health shall not be payable until the mayor shall be fully satisfied that the preceding two sections have been impartially carried out.

92. Said physicians shall be appointed for one year, and shall act as health wardens for their respective wards, and they shall severally receive the annual salary of three hundred dollars, payable quarterly. Ibid, s. 4, No. 18, s. 10: No. 5, Feb. 28, '61. To act as health wardens. Salaries.

93. It shall also be the duty of the vaccine physicians residing in the wards in which the several police stations are located, to attend to all police officers who may be wounded in the discharge of their duties, and to all cases which may require professional services at said station houses; and the said physicians shall each receive one hundred dollars per annum, in addition to their present compensation. No. 4, Dec. 9, '58. Vaccine physicians to attend police officers wounded in discharge of duty. Additional salary.

94. It shall be the duty of all the vaccine physicians appointed by the mayor and city council to sign, in their respective vaccine districts, free of charge, all certificates that may be required of them, to enable children to enter any of the public schools of Baltimore, as required by the act of 1864, c. 269, s. 7. (sec. 15, statutes, of this article.) No. 12, Mar. 28, '65. Vaccine physicians to grant certificates.

95. Any vaccine physician refusing to sign any certificate that he may be required to sign in compliance with the preceding section, shall forfeit his office; and it shall be the duty of the mayor, upon satisfactory evidence of said refusal, to discharge the vaccine physician or physicians so refusing, and appoint another in his or their respective districts, and so on *ad infinitum*, said appointment to be confirmed by the council. Physician refusing to grant certificate to be discharged.

96. As health wardens, it shall be the duty of the vaccine physicians to have a general supervision of the health of their respective wards, examining and reporting to the board of health any nuisance which, in their opinion, is or may become a source of disease; and that whenever any disease of a contagious character shall manifest itself in any of their respective wards, it shall be their duty, under the direction of the board of health, to proceed at once to use such means as the nature of the case may demand, to arrest its progress, and if they shall neglect faithfully to perform the requirements No. 18, s. 11, R. O. Further duties of vaccine physicians.

herein specified, it shall be the duty of the mayor to remove them at once; and any one so removed, shall forfeit such portion of the salary as may be due him at the time of his removal.

Ibid, s. 12. Officers of dispensaries to preserve virus, &c.

97. It shall be the duty of the physicians of such dispensaries as receive donations from the mayor and city council, to preserve at all times a full supply of vaccine virus, and that satisfactory evidence of a compliance with the terms of this ordinance, to be filed with the comptroller, shall be necessary to entitle said dispensaries to the appropriation made for their use.

Ibid, s. 13. To repeat vaccination.

In all cases where the trial of vaccination fails, it shall be the duty of the vaccine physicians to repeat the operation until they are satisfied that the subject will not receive the vaccine infection.

No. 18, s. 15, R. O. Inoculation prohibited.

98. No person shall communicate the infection of small pox by inoculation within the city of Baltimore, under a penalty of twenty dollars for each and every such offence.

Ibid, s. 16. When board of health to fence in infected districts.

99. The board of health, with the approbation of the mayor, may cause all districts where malignant or yellow fever may have become fixed and confirmed beyond their control, to be fenced in and guarded by sentinels.

Ibid, s. 17. When mayor to convene city council.

100. The mayor may, upon the commissioner of health reporting that he has good reason to believe that a contagious or malignant disease prevails in the city, immediately convene the city council, in order to communicate to them all the information he may have received respecting the same, that they may take such measures as may seem proper for the occasion.[1]

QUARANTINE AND MARINE HOSPITAL.

No. 17, s. 1, R. O.; No. 43, June 2, '62. Marine hospital. Physician to be appointed.

101. The hospital on the southern shore of the Patapsco river, shall be known as the Marine Hospital; and a suitable person, to be known and designated as the marine hospital physician, shall be annually appointed as other city officers

[1] Ord. No. 51, May 6, '66, entitled an ordinance to establish a sanitary commission and sanitary agents for the city, expired by limitation, Sept, 1, '66.

are appointed, who shall be a legally authorized practising physician, whose duty it shall be to reside permanently on said hospital grounds, and generally to superintend the affairs of the hospital and the grounds attached thereto, and under the direction of the board of health to manage the whole domestic economy of the premises; to collect all moneys which may become due from patients of every class, and from all emigrants and others who may be received into said hospital, and to pay over said money to the register of the city on the first Monday of each and every month, and make a monthly report on the same day to the board of health of the affairs of the hospital, the number of inmates, by whose order received, and at whose expense. It shall be the further duty of the marine hospital physician, and he is hereby required, when making his monthly returns to the city register, to render a statement in detail of all the several articles, with the quantities and prices attached, purchased by him or by his authority, or in any other manner, for the use of the marine hospital during the month just ended; also the number of patients, resident and under treatment at said hospital at the several times of making said monthly returns.

General duties.

To pay over moneys.

Monthly reports.

Detail statement of articles purchased.

Patients.

102. He shall promptly attend to all messages or communications sent to or left at the hospital which may in any way concern his duties under this ordinance, at all seasons of the year, and at any hour of the day, between sunrise and sunset; he or his assistant, as hereinafter provided for, shall also carry into execution the quarantine laws and regulations provided for by this ordinance. He may, in case of ill health, or when the mayor and board of health may deem it absolutely necessary, employ, with their consent, one assistant, who shall also be a legally authorized practising physician, and reside at said hospital during the time he is so employed, for whose acts he shall be responsible, and whose compensation shall not exceed the sum of five dollars per day during the time his services may be required; said marine hospital physician shall, before he enters upon the duties of his office, execute a bond to the corporation, with such sureties as the

Ibid, s. 1. Further duties.

Assistant may be employed.

Bond.

mayor and comptroller may approve, in the penal sum of five thousand dollars, and with the condition that he will faithfully discharge the several duties and trusts reposed in him, and pay over to the register all money collected by him or his assistant for the city.

No. 17, s. 2, R. O.

Limits of quarantine.

103. All vessels[1] arriving from sea, between the thirtieth day of April and the first day of November, and at such other times as the mayor and board of health may direct, shall not approach nearer to the city than the quarantine ground, which shall be upon the southern or main branch of the Patapsco river; and it shall not be lawful for any vessel that is subject to quarantine regulations to approach nearer to the city than a line drawn from the point of Fort McHenry to the hospital ground; nor shall any such vessel come within the Lazaretto light, upon the north side of Fort McHenry, until she has received a written permit from the marine hospital physician, or his assistant, to that effect; and said marine hospital physician, or assistant, shall board all vessels arriving from sea (except vessels returning in distress, with outward cargo on board) after their arrival at quarantine ground, as soon as practicable, and such ship or other vessel shall come to anchor whenever required by the marine hos-

How vessels may come within limits.

Vessels to be boarded.

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[1] The corporation may impose penalties, or cause the vessel and all persons on board to be taken possession of and controlled until their disinfection is effected, and impose on the captain, owner, or consignee, reimbursement of all expenses incurred, or they may adopt both remedies. If the health officer of the city, on whom the duty of disinfection is imposed by the ordinances of the corporation, in causing expenses to be incurred, act *bona fide* within the limits of a sound discretion, and with reasonable skill and judgment in this discharge of his official duties, the reasonable expenses thus incurred by him, must be paid by the captain, owner, or consignee of the disinfected vessel, as declared by the ordinances of the city on such subjects. The health officer, in his disposition of persons on board of an infected ship, under the ordinances of the city, must send the persons laboring under the infectious disease to the hospital, and may also send those on board the same vessel, liable to be affected by it, to the hospital, if in his opinion, such course be necessary to prevent the spread of the disease; and in doing so, acting with reasonable skill and judgment, and with a sound and honest discretion in relation to persons not apparently afflicted with the disease, he renders the owner, master, or consignee, also liable for the reasonable expenses incurred as in other cases. *Harrison* v. *Mayor, &c*, 1 Gill, 264.

pital physician, or his assistant, from the thirtieth day of April to the first day of November, in each and every year; and it shall be the duty of the said physician, or his assistant, carefully to examine into the health of all the officers, crew and passengers of such vessels, the condition of the cargo, the state of the vessel as to cleanliness, and generally into all such circumstances as may in any way affect or concern the health of the city; and if he shall believe it to be unsafe to permit any vessel so examined to unlade her cargo or come to the wharf, he shall order said vessel to the Lazaretto wharf, or to some other place outside the city limits, there to perform the necessary purification, which shall be done in such manner as may be directed by said physician, or assistant, to his entire satisfaction, or whenever the health of the city, in the opinion of the physician, or his assistant, may be endangered, whether from the actual presence of disease or from an unclean condition of the ship, vessel or passengers, to require such ship or vessel to come to anchor at the quarantine ground, and there remain until the passengers have been removed, and the ship or vessel thoroughly cleaned and purified; and all expenses of purification and removal, and all other expenses incurred by said physician, or his assistant, to prevent the introduction or propagation of contagious or infectious diseases, to be paid by the master, owner or consignee of the ship or vessel for which the expense was incurred. And it shall not be lawful for any person commanding or having charge of such vessel, to remove her from the place assigned or designated by the said physician or his assistant, without his written permission, or to suffer such vessel to be so removed by others. And any ship, vessel or person violating any of the provisions of this section, or neglecting to comply with any orders issued or given by said physician, or his assistant, in conformity thereto, shall be liable to a penalty of five hundred dollars, and a further penalty of fifty dollars for every hour the ship or vessel may remain in any position in violation hereof; and an action for the recovery of all fines, forfeitures or expenses incurred in carry-

Within what periods.

Physician's special duties.

Cargo.

Passengers.

Vessel not to be removed.

Penalty.

ing into effect any of the provisions of this ordinance, may be laid against the ship or vessel, the master, the owner or consignee of the ship or vessel so violating, each or all of them, at the election of the city.

Ibid, s. 3.
Vessels to be purified.

104. All vessels, after their cargoes are discharged, shall, if deemed necessary by the board of health, be forthwith removed to the stream, and to a proper distance from the wharf, and thoroughly cleansed and ventilated, under the direction of the said board; and any person offending against the provisions of this section, or who shall refuse or neglect to comply with the order of the officer or officers charged with its execution, shall forfeit and pay the sum of one hundred dollars, and twenty dollars for every hour thereafter during which said disobedience shall continue.

Penalty.

Ibid, s. 4.
Duties of commanders, captains and pilots, in regard to infectious diseases.

105. The commander, captain, pilot, or person having charge of any vessel coming to the port of Baltimore, from sea or elsewhere, and on board of which there shall be any person or persons affected with small pox, varioloid disease, or other eruptive complaint, or infectious or contagious diseases, or whose condition would authorize a suspicion that the malady may be small pox or any modification thereof, or any other infectious or contagious diseases, or on board of which small pox, varioloid, or any eruptive disease of a kind which would authorize a suspicion that it had been any form or modification of small pox, or any other infectious or contagious diseases, shall have appeared at any time during the voyage from the port or place at which the vessel had cleared, shall bring the said vessel to at the quarantine ground, and there await the arrival of the marine hospital physician, or his assistant, and not depart thence until a written permission from the marine hospital physician, or his assistant, shall be obtained for that purpose; and it shall not be lawful for the said commander, captain, pilot or other person having charge of such vessel, to land or bring on shore or suffer to be landed or brought on shore, any passenger or passengers, or any of the officers or crew of such vessel, or any part or parcel of the

Passengers not to be landed.

baggage, goods or effects, or any other articles contained in said vessel, until he has obtained a written permission from the marine hospital physician, or his assistant, so to do; and it shall, moreover, be the duty of the persons aforesaid having charge of said ship or vessel, to make a full disclosure of all such circumstances in relation to the health of the officers, crew and passengers on board said vessel during the voyage, and at the time of the inquiry, as may be necessary to enable the marine hospital physician, or his assistant, to determine on the measures necessary to be taken in the premises, and particularly to answer any interrogations which may be put to him by said officer, in reference to the existence of small pox, varioloid or other eruptive, infectious or contagious diseases among the officers, crew or passengers on board the vessel at the time of the inquiry, or at any previous time during the passage; and any person neglecting or refusing to comply with any of the requisitions or provisions contained in this section, or with any order of the marine hospital physician, or his assistant, in pursuance of and in conformity thereto, shall forfeit and pay the sum of five hundred dollars; and if the said penalty shall have been incurred by the commander, captain, pilot or other person having charge of such vessel, and he shall abscond or evade the execution of this ordinance, then the said penalty shall be paid by the owner or consignee of such ship or vessel, unless he shall give such information as may lead to the apprehension of the delinquent.

Nor baggage, goods or effects.

Interrogatories to be answered.

Penalty.

106. The marine hospital physician, or his assistant, shall visit all ships or vessels that may come to at the quarantine ground, as directed in the preceding section, as soon as practicable, in daylight, after the knowledge of such fact shall have been by any means obtained by him; and said officers is hereby authorized and directed to send all persons affected with the small pox, varioloid, or other infectious or contagious diseases, who may be found on board such vessels to the marine hospital, to take or direct such measures in regard to the officers, crew and passengers as

Ibid, s. 5.

What persons to be sent to hospital.

Baggage, &c. to be purified.

in his opinion may be necessary to disinfect them, and to prevent their propagating the disease, to direct all such articles on board the vessels to be landed, in order to be purified from infection, as he may deem proper, and to subject all such articles to such process of disinfection as he may think necessary for that purpose. And said officer is moreover authorized and required to keep all such articles as he may deem necessary, to subject to the disinfecting process aforesaid, under his own care and supervision, until such purpose be accomplished. And it shall be the duty of the marine hospital physician, or his assistant, with the approbation of the mayor, to adopt all means or measures consistent with the laws of the United States, the State of Maryland, and

Communication with citizens to be prevented.

of the city of Baltimore, to prevent any communication between the citizens of Baltimore and those detained, until the necessary means are used to disinfect them, their baggage and other property, to the satisfaction of the marine hospital physician, or his assistant. And any person removing or attempting to remove any baggage or merchandize detained in virtue of this section, or any of the health ordinances of

Penalty.

the city, shall forfeit and pay twenty dollars, and all expenses of removing said baggage or merchandize back to the hospital or Lazaretto grounds, as may be directed, and of delivering the same into the charge of the marine hospital physician, or his assistant.

Ibid, s. 6. Expenses of purification, &c., how to be paid

107. The expenses which may be incurred in the disinfecting and purifying of vessels, persons, baggage, or other articles from the infection of small pox or other diseases, as provided for in the preceding section, shall be done at the proper cost and charge of the commander, captain, owner or consignee of the infected vessel, and such part thereof as it may be necessary for the marine hospital physician, or his assistant, to incur in the first instance, shall be charged to the commander, captain, owner and consignee, or either of them, at the discretion of the marine hospital physician, or his assistant, and collected by him; but if it cannot be so collected, the amount which he shall have neces-

sarily expended for the purpose aforesaid, shall be refunded or repaid by the register of the city, with the approbation of the mayor. All passengers placed under quarantine, whether detained on ship-board, or removed on shore, as the marine hospital physician, or his assistant, may direct, who shall fail to maintain themselves, shall be provided for by the master of the vessel in which they shall have arrived; and if the master shall omit to provide for them, as above directed, the expense of their maintenance shall be charged to the vessel in which they arrived. And such vessel shall not be permitted to leave the quarantine ground until such expense shall have been repaid, or secured to be paid in a manner satisfactory to the mayor.

Ibid, s. 7. Expense of maintenance of passengers under quarantine, how provided for.

108. If the captain, commander, or other person having charge of any vessel which shall be detained at quarantine by the marine hospital physician, or his assistant, shall refuse or neglect to obey or carry into effect any order or requisition of the marine hospital physician, or his assistant, made in pursuance of, and in conformity with, the provisions of the preceding section 106, he shall forfeit and pay the sum sum of twenty dollars for every such refusal or neglect, and the further sum of twenty dollars for every hour thereafter, during which such disobedience shall continue; and if any person on board such vessel shall leave it and come on shore without the permission of the marine hospital physician, or his assistant, he or she shall forfeit and pay the sum of fifty dollars; and any person who shall have been permitted to land, and directed to remain at the marine hospital until permitted to go into the city, and shall leave the hospital grounds without the permission of the marine hospital physician, or his assistant, shall forfeit and pay the sum of fifty dollars; and if any person shall go on board, or have communication in any manner otherwise than by speaking with the persons on board any vessel brought to or detained under the provisions of this ordinance under quarantine, before he or she hath obtained permission from the marine hospital physician, or his assistant, in writing, he or she shall forfeit

Ibid, s. 8. Penalty on refusal of captain to comply with order of hospital physician.

Penalty upon leaving vessel without consent of hospital physician.

Upon going aboard vessel without consent of hospital physician.

Ibid, s. 9. Duty of board of health in cases of infectious disease.

and pay for every such offence the sum of twenty dollars. If small pox, varioloid, or any infectious or contagious disease shall appear upon any of the officers, crew or passengers of any vessel, at any of the wharves of the city, or at anchor in the basin or harbor, at any season of the year, and the fact shall come to the knowledge of the board of health, it shall be the duty of the said board, or any one of them, to order said vessel to the quarantine ground, to be subject to the regulations hereinbefore provided for in respect to vessels detained at quarantine; and if the commander, captain, or other person having charge of such vessel shall refuse or neglect to obey such order, he shall forfeit and pay the sum of one hundred dollars for such refusal or neglect, and the further sum of twenty dollars for every hour thereafter, during which time such disobedience shall be persisted in; and it shall be the duty of the said board of health, or any member thereof, to notify the marine hospital physician, or his assistant, of the fact, for his government in the case.

Penalty upon refusal to obey orders in such case.

Ibid, s. 10. Fees to be collected for visiting vessels.

109. The marine hospital physician, or his assistant, upon visiting any vessel in compliance with the provisions of this ordinance, whether at quarantine or elsewhere, shall demand and receive from the commander, captain, owner or consignee of such vessel, the following sums of money, viz: From any vessel not exceeding two hundred tons register measurement, two dollars for each and every voyage, and for vessels over and above two hundred tons, one cent a ton for each and every voyage. And it shall be the duty of the marine hospital physician, or his assistant, to make monthly returns, on oath, of all money collected by him, and pay over the same to the register of the city, without discount or deduction; and also to return the number of vessels boarded by him and the tonnage of each. And if any commander, captain, owner or consignee of such vessel shall refuse or neglect to pay the sum authorized to be demanded of him by this ordinance, it shall be the duty of the marine hospital physician, or his assistant, to issue and deliver, or cause to be delivered, to said commander, captain, owner or consignee, a written order for-

Penalty upon refusal to pay same.

bidding the landing of any part of the cargo of such vessel, until the demand is paid; and if any person, so notified, shall disobey such order, he or she shall forfeit and pay the sum of twenty dollars, and the further sum of twenty dollars for every hour thereafter during which such disobedience shall continue.

Ibid, s. 11, No. 43, June 17, '67. Salary of hospital physician.

110. In consideration of the duties to be performed as marine hospital physician, and in order to secure the best professional services, said officer shall hereafter receive, in lieu of all commissions or perquisites, a salary at the rate of two thousand dollars per annum, payable monthly; and may occupy the dwelling on the hospital grounds, free of charge; but all expenses incurred for his support or that of his family, shall be defrayed out of his salary.

Ibid, s. 12, No. 68, May 30, '66: No. 57, Aug. 9, '67. Boatmen, &c., to be employed.

111. The marine hospital physician, with the consent and approbation of the board of health, shall be authorized, and he is hereby empowered to employ such persons as may be required for boatmen, (whose wages shall be at the rate of sixty dollars per month,) farm hands or nurses, at such prices as may be agreed on by them; such person or persons to be discharged as soon as their services are not needed.

No. 17, s. 13, R. O. Charges to be paid for board, &c. at hospital.

112. The marine hospital physician shall be authorized, and he is hereby directed and empowered to charge each patient, over fifteen years of age, who may be sent to the marine hospital, fifty cents for each and every day they may continue therein, and twenty-five cents for each and every person under fifteen years of age, except infants, for whom no charge shall be made. And should said patient or patients, liable to pay such charges, fail to do so prior to leaving said hospital, then the master, owner or consignee of the ship or vessel from which such patient was received, shall be answerable for said charge, and it shall not be lawful for any person commanding or having charge of such ship or vessel, to remove such ship or vessel from the quarantine grounds before executing, in writing, an agreement to pay to the mayor and city council of Baltimore, such sum or sums as shall be

How and of whom to be collected.

chargeable to each and every patient sent to said hospital from such ship or vessel.

Ibid, s. 14. Hospital physician to obtain supplies.

113. Said marine hospital physician, through the board of health, and with the approbation of the mayor, may obtain the necessary supplies for the support of the hospital, and for carrying out the provisions of this ordinance, and all bills for these purposes must be contracted by the board of health; and said physician may, with the approbation of the mayor, draw on the register for such sum or sums as may be required for the purposes aforesaid; provided, the same shall not exceed the amount deposited by him with the register in the current year.

To draw on the register.

Proviso.

Ibid, s. 15. Goods, &c. to be disinfected.

114. Whenever the marine hospital physician, or his assistant, shall find it necessary to order the goods, baggage or bedding from on board a ship or vessel for the purpose of cleansing or disinfecting the same, he shall take care to have them kept safe from injury or depredation, and cause them, when disinfected, to be returned to the ship or vessel from which they were taken, before such ship or vessel shall leave the quarantine ground, unless the owner or owners thereof be detained at the hospital, in which case the same shall be delivered to the respective owner or owners thereof, when they shall be discharged from the hospital; the captain, owner or consignee shall be answerable for all expenses incurred in carrying out the provisions of this section.

To be returned in good order.

Expense to be paid.

Ibid, s. 16. Condition of passengers to be examined.

115. It shall be the duty of the marine hospital physician, or his assistant, to carefully inspect the condition of all passengers, and passenger ships or vessels arriving at this port from any foreign country; and whenever, in their opinion, the health of the city may be endangered, whether from the actual presence of disease, or from an unclean condition of the ship or passengers, to require such ship or vessel to come to anchor at the quarantine ground, and there remain until all the passengers have been removed, and the ship or vessel thoroughly cleansed and purified; all expenses of purification and removal, and all other expenses incurred by the

marine hospital physician, or his assistant, to prevent the introduction or propagation of contagious or infectious diseases, to be paid by the master, owner or consignee of the ship or vessel for which the expense was incurred.

Ibid, s. 17. Passengers and crew to be vaccinated.

116. The marine hospital physician, or his assistant, may, when either of them deem it necessary, to prevent the propagating of small pox or varioloid disease among the crew and passengers of a ship or vessel detained at the quarantine ground, vaccinate any one or more of said crew and passengers, and may charge twenty-five cents per person for performing said duty, and in case one or more persons on board a ship or vessel whom it would not be necessary to send to the hospital, but who may desire the attendance of the marine hospital physician, or his assistant, during any part of the time said ship or vessel may remain at the quarantine ground, shall charge fifty cents per day for each and every person he may so attend, and in case said person or persons shall fail to pay said charges, then the ship or vessel, the master, the owner or consignee of the ship or vessel shall be answerable for the charges herein provided to be made; the money, when collected, to be paid to the city register, to be placed by him to the credit of the marine hospital.

All moneys to be paid to register.

Ibid, s. 18. Duty of harbor masters to report to board of health.

117. Whenever the harbor masters, or any one of them, shall hear or know of any violation of any of the provisions of this ordinance, it shall be his or their duty to report said violation to the board of health, who shall promptly enforce the penalties of this ordinance; and all money so collected shall be paid to the city register, who shall place the same to the credit of the marine hospital.

Ibid, s. 19. Visiting committee.

118. The mayor of the city, the presidents of the two branches of the city council, the president of the German society, the president of the Hibernian society, and the president of the St. Andrew's society, are a committee, ex-officio, and are hereby empowered to visit said hospital, once during each month, or oftener, if necessary, and to examine the condition of the patients, their food, bedding, clothing, cleanli-

Duties.

ness and ventilation of the apartments, as well as into all other things connected with the general or medical management of the institution; and said committee, through the mayor only, may make such suggestions to, or requisitions upon, the board of health, as may be deemed expedient or necessary in relation to the food, bedding, or other suitable supplies for the comfort of said patients, with a due consideration at the same time of an economical expenditure of such moneys as from time to time may be appropriated for the use of the said hospital.

Ibid, s. 20. Committee to be carried to and from hospital. Proviso.

119. The officers, respectively, of the aforesaid visiting committee, shall be honorary, and without pecuniary remuneration; provided, however, that the board of health is hereby authorized to supply, at all necessary times, suitable conveyance for said committee, to and from said hospital, the vouchers for the expense of which conveyance shall be allowed in the annual statement of said board, properly charged to the account of the said hospital.

STREETS.

No. 19, s. 1, R.O. City divided into five districts.

120. In order more effectually to secure the keeping of the several streets, lanes and alleys properly cleaned, and to secure the health of the city, the board of health is hereby directed to divide the city into five districts, as equally as may be, regarding the surface of paved streets, lanes and alleys; and there shall be annually appointed, after the manner and at the time of the appointment of other officers of the corporation, five persons, one for each of the said districts, who shall reside in the districts for which they may be respectively appointed, and who shall be called the superintendents of streets.

Appointment of superintendents.

Ibid, s. 2. Superintendents to act as agents of corporation; their duties.

121. The districts laid off according to the preceding section, shall be under the control of the aforesaid superintendents, who shall act as agents of the corporation, and shall, with the approval of the mayor and the commissioner of health, employ an effective force sufficient at all times for the cleaning and keeping clean the public streets, lanes and alleys of the city, and the clearing away of the ice

and snow[1] from the gutters and crossings of the streets, lanes and alleys, and also the snow and ice from the front of the public schools; also of all public buildings occupied and owned by the city, and the footways of bridges, including the public wharves belonging to and in the occupancy of the corporation; and also all the footways of the city springs and public squares. Snow and ice.

122. It shall be the duty of the said superintendents to superintend the working and proper distribution of the men, horses and carts, to the best advantage for cleaning the streets, lanes and alleys; and also to keep the number of men, horses and carts specified in the respective districts, diligently employed in removing street dirt and manure from the streets, lanes and alleys, (unless otherwise employed by the direction of the commissioner of health,) at least eight hours in each and every day, (Sundays excepted,) and it shall be the duty of the said superintendents on Monday morning of each week to make a full report in writing, under oath, to the commissioner of health, which report shall state the number of men, horses, carts and implements kept by them respectively at work during the week previous, for the benefit of the city; the number of loads of street dirt and manure removed and sold, and the amount of money received therefor; and also the locations in their respective districts where the men, horses and carts were engaged; and they shall at no time employ more men, horses and carts than are absolutely necessary for the performance of the duties required of them; and the register is hereby directed to pay to said superintendents, on the written order of the health commissioner, such sums of money weekly as may be necessary to pay for the labor of removing said street dirt, manure and offal. Ibid, s. 3. To superintend men, horses carts. To make weekly reports to commissioner of health. Register directed to pay superintendents weekly.

123. The accounts, with reports presented by each superintendent on Monday morning of each week to the commis- No. 8, Mar. 28, 61. Weekly reports

[1] See other provisions and notes of cases under Streets, *post*.

Examined by comptroller.

sioner of health, with pay roll, shall be presented to the comptroller, and examined and marked correct by him, before payment is made by the register.

No. 19, s. 4, R.O. To notify the mayor of all offences committed.

124. Said superintendents of streets shall execute all orders pertaining to their duties and office, which they may receive from the board of health, and shall give immediate notice to the mayor of all offences committed against the ordinances and laws enacted for the preservation of the health and cleanliness of the city, and under his direction shall cause the same to be rigidly enforced, and shall perform all such duties as the mayor may require of them.

Ibid, s. 5. Superintendents and health commissioner to sell manure, &c.

125. The said superintendents and the commissioner of health are authorized and empowered to sell, from time to time, the manure, street dirt, offal and garbage, on terms the most advantageous to the city, and return the amount of said sales, under oath, to the register.

Ibid, s. 6. Bond.

126. The said superintendents shall each give bond to the mayor in the sum of two thousand dollars for the faithful performance of his duties, and for the weekly return to the register of the city of all money received by him for the sales of manure, dirt and offal made by him for and in the name of the corporation.

Ibid, s. 7. Power to employ additional force.

127. The superintendents appointed under this ordinance, with the commissioner of health, shall have power and authority, by and with the advice and consent of the mayor, at any time when a necessity exists, to employ an additional force; and it shall also be the duty of the superintendents, with the commissioner of health, to cause said additional force to be discharged as soon as the necessity for its employment shall have ceased.

Ibid, s. 8. To employ a sufficient number of horses, carts and drivers for removal of offal, coal ashes, &c., in different districts.

128. It shall be the duty of the superintendents, with the commissioner of health, to employ a sufficient number of drivers, horses and water-tight carts for each district, for the removal of offal and coal ashes from the dwellings and other places within the several districts; and it shall be the duty of the men not only to act as drivers, but also to collect all

offal and coal ashes as herein provided; and said superintendents shall cause said horses, carts and drivers to pass through all the streets, lanes and alleys within their respective districts, in such manner as shall insure the passage of one horse, cart and driver through each and every street, lane and alley, not less than three times a week, on alternate days, from the first day of November until the first day of May, and daily (Sundays excepted) from the first day of May until the first day of November, and they shall give notice to housekeepers of their approach by sounding a trumpet, blowing at the intersection of each street, that may be heard at least one square; and said superintendents shall in no case, own or be interested in the ownership of said horses or carts. And it shall be the duty of all housekeepers to have placed in a vessel or vessels, not exceeding in capacity one bushel each, near their premises or some convenient place of access, at such time as said carts may pass, all kitchen offal or coal or other ashes; and it is hereby expressly ordained, that no other substances than those mentioned in this section shall be regarded as garbage, under a penalty of one dollar for each offence.

Duty of drivers of garbage carts.

Trumpet to be sounded.

Duty of housekeepers.

Penalty.

129. The carts employed by the city for the collection of offal and coal ashes, agreeably to the preceding section, shall each have a sign placed thereon at some conspicuous place, with the words, "city garbage cart," painted in large letters in black and white ground, and there shall also be a bell or bells attached to the hames or collars of the harness, with sufficient tone to be heard at the distance of a square.

Ibid, s. 9.

Garbage carts to have a sign, and bells attached to horses.

130. It shall not be lawful for any person or persons, engaged in the collection of offal or coal ashes, not employed by the city, to have a sign on his, her, or their cart or carts, nor shall any bell or horns be used; and any person or persons violating this section, shall be fined one dollar for each and every offence.

Ibid, s. 10.

Penalty.

131. If any person or persons engaged in the collection of offal or coal ashes, employed by the city, shall neglect or refuse to take and carry away any offal or coal ashes set out

Ibid s. 11.

Penalty for neglect of duty.

as required by this ordinance, within six hours after he or they shall be informed, or be aware of the same being so set out, he or they shall be subject to a penalty of one dollar for each and every such neglect or refusal.

Res. No. 84, May 19, '63. How carts to be covered.

132. The commissioner of health is authorized to have dead animals lying in the streets removed, and to cause the vehicles used in their removal from the streets and station houses to be so constructed as to have wooden covers and kept locked, or to be covered with oil cloth, as they pass through the streets, as in his judgment may be deemed most advisable.

Ord. Mar. 23 '69. Carts carrying offal, &c.

133. All carts employed by the city for the collection of offal and coal ashes shall be covered with heavy canvas or other substantial material, so as to prevent dust or affluvia from escaping from such carts while being driven along the streets of the city.

No. 33, s. 12, R. O. Carts, &c. used for certain purposes to be tight.

134. The owner of every cart, wagon or other carriage employed in removing or carrying any sand, ashes, dirt, gravel, loam, earth manure, filth, stone, brick or coal, over any of the streets, lanes or alleys of the city, shall have and keep the same in such tight and secure condition as that such ashes, sand, dirt, gravel, loam, earth, manure, filth, stone, bricks or coal shall not be scattered or suffered to fall on any of the streets, lanes or alleys aforesaid, under the penalty of two dollars—one-half to the informer.

Ibid, s. 43. Penalty for placing slop carts, &c., across footways.

135. Every person who shall place or cause to be placed any slop cart on any footway, or place any trough across any footway, for the purpose of filling or emptying any slop cart, shall forfeit and pay the sum of one dollar for each and every offence.

No. 8, Mar. 28, '61. Police officer to report.

136. It shall be the duty of the police officers to report to the health commissioner all cases of neglect or refusal on the part of the driver of any garbage cart, to remove any garbage from any premises, when the same shall be properly placed on the footway.

137. It shall be the duty of the commissioner of health to make a tour or circuit of inspection through the several districts, at least once in two weeks, to examine the condition of the streets, lanes and alleys, and also to ascertain whether said superintendents have faithfully discharged their duties according to the provisions of this ordinance, and report to the mayor.

No. 19, s. 12, R O. Commissioner of health to make a circuit of inspection once in two weeks.

138. The superintendents of streets, appointed under this ordinance, shall each receive from the register, whose duty it shall be to pay the same, as a compensation for his services, the sum of seven hundred 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 seven hundred dollars per annum, and be paid out of the salary of the said superintendent; and the compensation for a horse and street cart and driver, shall not exceed four dollars per day, which shall be paid weekly to the parties furnishing the same; and garbage carts three dollars and fifty cents per day, or pro rata for a portion of a day.

Ibid, s. 13. Compensation of superintendents, their laborers, horses, carts, &c.

No. 5, Feb. 12, '66, No. 25, Mar. 24, '66, No. 80, Sept. 22, '66, No. 11, Mar. 10, '64, No. 11, Mar. 6, '63, No. 8, Mar. 28, '61, No. 5, R. O.

Compensation for street and garbage carts.

139. No person whatsoever shall remove or carry away any manure or dirt out of any paved street, lane or alley within the city, unless by the authority of the commissioner of health, except manure or dirt which they themselves may have temporarily deposited thereon, and every person offending herein shall forfeit and pay the sum of three dollars for each and every load of manure or dirt so removed or carried away, and in proportion for any less quantity.

No. 19, s. 1, R.O. Manure not to be removed.

Penalty.

140. Every person who shall cast, place or lay any rubbish, oyster shells, filth, dirt, shavings, stable manure, or offals of any trade, business or occupation, or any rubbish from build-

Ibid, s. 3. Rubbish, &c. in streets prohibited.

ings, cellars or back yards, or any refuse or dirt from coal or firewood, or any ashes, or any noxious or offensive matter, substance or thing whatsoever, into or in any public square, place, street, lane or alley in the city, or cause the same to be done, except when the same may have been removed from his, her or their premises for immediate removal, the same to be removed within twenty-four hours, shall forfeit and pay the sum of one dollar for every such offence, and the further sum of one dollar for each and every day the same shall remain in such place.

Penalty.

No. 19, s. 14, R. O. Principal streets to be sprinkled and swept.

141. The commissioner of health is hereby directed to have the principal streets of the city sprinkled and swept, and the dirt removed by the hour of eight in the morning, between the first of April and the first of October.

Ibid, s. 15; No. 41, May 7, '61. Market houses to be cleaned on Sunday morning.

142. It shall be the duty of the said superintendents, every Sunday morning, at or before sunrise, to have the filth and offal accumulated at the different market houses where market is held on Saturday evenings, removed; and the regular wages for one-half of a day be allowed for the compensation of such men, horses and carts as may be employed to perform the work.

Ibid, s. 16. Power of mayor to discharge superintendents.

143. It shall be the duty of the mayor, at any time, to discharge any of the said superintendents for the violation of any of the conditions of this ordinance, and to fill their places by the appointment of others.

ARTICLE XXIV.

HOLIDAY AND WAR OF 1812.

ORDINANCES.

1. Twelfth of September.
2. Defenders of Baltimore: annual appropriation.
3. Appropriation for soldiers, war 1812.
4. Commissioners: registry: returns to mayor, &c.
5. Mayor, &c. to fill vacancies: no compensation to commissioners.

ORDINANCES.

1. The Twelfth Day of September is hereby recognized and declared to be a municipal holiday, and upon its annual recurrence the municipal departments shall be closed, and the business of the corporation suspended, as a mark of respect for the day.[1]

No. 79, Sept. 11, '66. Twelfth of September.

2. The register of the city is hereby authorized and directed to pay, annually to the treasurer of the Association of the Defenders of Baltimore city, in the war of 1812, the sum of one hundred dollars; said sum to be expended in payment of expenses of a band of music, or for any other purpose they may see fit to apply the same, to be used by said association

No. 78, Sept. 10, '60. Defenders of Baltimore. Annual appropriation.

[1] 1862, c. 70, provides that, where bills of exchange or promissory notes become due and payable on Christmas day, or on new year's day, or on the fourth day of July, or on the twenty-second day of February, or on any day of public thanksgiving or humiliation and prayer, proclaimed by the governor of this State, or by the authority of the legislature thereof, the same shall be payable on the day next before said Christmas day, new year's day, fourth day of July, twenty-second day of February, or day of thanksgiving or humiliation as aforesaid, unless said next preceding day shall be Sunday, in which event said promissory notes or bills of exchange shall be payable on the Saturday preceding; 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 day

in the celebration of the 12th day of September, 1814, in honor of the battle of North Point.

No. 33, s. 1, May 31, '65. Appropriation for soldiers, war 1812.

3. The sum of five thousand dollars, or so much thereof as may be necessary, is hereby appropriated to meet actual necessities existing among the soldiers and widows of soldiers of the war of 1812, who are at this time residents of the city of Baltimore.

Ibid, s. 2. Commissioners.

4. There shall be annually appointed, as other city officers are appointed, three citizens to act as a board of commissioners, whose duty it shall be to determine who are entitled to such pension or sum set apart by them to meet the necessities of each case, and give to such as are entitled an order on the city register for the same. It shall also be the duty of the

Registry.

commissioners to keep a registry of all such soldiers and widows, their residences, the character of their conditions, and the amount of money appropriated to their use, which sum shall not exceed one hundred dollars per annum; such

Returns to mayor, &c.

registry and statement to be presented to the mayor, comptroller and register, for inspection quarterly, and the same shall be submitted to the council when in session.

Ibid, s. 3. Mayor, &c. to fill vacancy.

5. When a vacancy occurs in the board of commissioners during a recess of the council, by death, resignation or otherwise, the mayor, comptroller and register, or any two of them,

No compensation to commissioners.

shall have power to fill such vacancy. The commissioners are to receive no compensation for their services, but they shall be allowed by the comptroller for stationery and other expenses, such as may be indispensably necessary for the actual business under their charge.

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next after said Christmas day, new year's day, fourth of July, or twenty-second of February, or day of thanksgiving or humiliation as aforesaid; and in case said next succeeding day shall be Sunday, it shall not be necessary for the holders of said bills of exchange and promissory notes to give notice of the dishonor thereof, until the second day next succeeding said Christmas day, new year's day, fourth of July, or twenty-second of February, or day of humiliation or thanksgiving as aforesaid; and every such notice so given as aforesaid, shall be valid and effectual to all intents and purposes.

ARTICLE XXV.

HOSPITALS.

STATUTES.

1. Houses of correction, hospitals, pest houses.

MARYLAND HOSPITAL.

2. Visitors, &c. incorporated.
3. Quorum.
4. President, vice-president and secretary, when and how elected.
5. Vacancies, how filled.
6. Oath of office.
7. Power to appoint officers.
8. By-laws, rules, &c
9. Who to be admitted.
10. Rules and regulations.
11. Pay for support of pauper lunatics.
12. Streets not to be opened through property.
13. What land hospital may sell.
14. Persons committed: pauper lunatics.
15. Insane or lunatic convicts.

ORDINANCES.

1. Insane asylums not to be erected within limits of direct taxation.
2. Buildings already erected: proviso.
3. Penalty.
4. Appropriations to Maryland hospital and Mount Hope institution.

STATUTES.

1. The mayor and city council may erect or establish houses of correction, hospitals or pest houses, within or without the city, if necessary, and pass all ordinances for the government of the same.

P. L. L., art. 4 sec. 31. Houses of correction, hospitals, pest houses, &c.

MARYLAND HOSPITAL.

2. The present visitors of the Maryland hospital, consisting of one from each county and eleven from the city of Baltimore, and the president and vice president chosen as hereinafter directed, are a body politic and corporate, by the name of the president and visitors of the Maryland hospital, and shall by that name have perpetual succession, may sue and be sued in any court of this State, may have and use a common seal, and may at their pleasure, alter and change the same, and may purchase, hold and receive, sell, demise or dispose of, any property, real, personal or mixed, as they shall

P. G. L., art. 44, sec. 1. Visitors, &c., of Maryland hospital incorporated.

judge to be most beneficial and advantageous to the good and charitable ends and purposes of the institution.

Ibid, s. 2. Quorum.

3. At any meeting of the board of the Maryland hospital, which consists of president, vice president, and visitors, any seven members shall be a quorum, competent to exercise all the powers and execute all the duties conferred by this article.

Ibid, s. 3. President, vice president and secretary, when and how elected

4. The said president and visitors shall meet on the Wednesday next succeeding the first Monday in June in each year, at such place in said hospital, or in the city of Baltimore, as they may deem proper, and elect a president, vice president, secretary and treasurer, who shall hold their offices for one year, and until other and proper persons shall be chosen and elected in their places, according to such by-laws as the said president and visitors may make and appoint.

Ibid, s. 4. Vacancies, how filled.

5. If the president, vice president, secretary and treasurer, or any of the visitors shall die, resign, remove from the city of Baltimore or counties, respectively, from which they were appointed, or shall, in conformity to the by-laws and regulations which the said president and visitors may make and ordain, be removed from their respective places, an election shall be held to supply their places for the residue of the term for which they were elected, according to the rules, regulations and by-laws of the corporation.

Ibid, s. 5. Oath of office.

6. The persons so elected and appointed, before they proceed to exercise any of the functions of their offices or appointments, shall take an oath faithfully and duly to exercise their respective offices.[1]

[1] 1868, c. 58 repealed 1864, c. 129, an act prescribing an additional oath to be taken by the president, vice president and visitors of the said hospital.

1868, c. 275, recites that the act of incorporation (1827, c. 205; 1816, c. 156,) of the Maryland Hospital appointed eleven visitors for Baltimore city and one visitor for each county then constituted; and that said act authorized the board to fill all vacancies but did not authorize them to make original appointments for new counties; and whereas, the county of Wicomico has been formed since the said act of incorporation, therefore it enacts, that Dr. Francis M. Slemons, of Wicomico county, be appointed a visitor of the Maryland Hospital for said county, and that to any vacancy which may happen in said board of visitors by death, resignation or other disqualification, his successor shall be appointed as provided for in the original act of incorporation.

7. The said president and visitors shall have full power to appoint such and so many physicians, surgeons, apothecaries, superintendents, matrons, nurses and servants, or other officers and persons for the administration and service of said hospital, as they may deem requisite, who shall hold their appointments at the pleasure of the said president and visitors. Ibid, s. 6. Power to appoint officers.

8. They may make, ordain, alter, amend and abolish all by-laws, rules and regulations for the administration and government of said hospital, as they may deem beneficial and advantageous. Ibid, s. 7. By-laws, rules, &c.

9. They shall admit into said hospital no person affected with any dangerous or contagious or infectious disease—but they may, in their discretion, build, or cause to be built, a separate and distinct house or establishment for such persons on the grounds belonging to the corporation, which separate establishment shall be under the control, management and direction of the said president and visitors in the same manner as the hospital. Ibid, s. 8. Who to be admitted.

10. They, or any number of them not less than seven, shall have power to prescribe such rules and regulations as they may deem necessary for the management, government and regulation of the said hospital, and for the admission and discharge of persons therein or therefrom, which rules and regulations shall be binding on all persons whatsoever; and they, or any number of them not less than seven, shall have power to institute an inquiry, whensoever they may deem it proper or necessary, into the management of the institution and the enforcement of its rules. Ibid, s. 9. Rules and regulations.

11. The president and visitors of the Maryland hospital shall receive from each county and the city of Baltimore, two hundred dollars per annum, for the support of each pauper lunatic sent from said county or city to said hospital. Ibid, s. 10. 1865, c. 136. Pay for support of pauper lunatics.

12. No street, road, lane or alley shall be laid out or condemned or opened through the grounds of said hospital, within the squares bounded by Monument, Wolf, Jefferson P. G. L., art. 45, sec. 11. Streets not to be opened through property.

and Broadway streets, in the city of Baltimore, without the consent of the General Assembly or the president and visitors of said hospital.

Ibid, s. 12. What land hospital may sell.

13. The said president and visitors may, if not already sold, sell so much of the grounds of the hospital as lies south of Jefferson street, as soon as they can do so for a reasonable price, and shall apply the purchase money to building a wall on the south boundary of the hospital ground.

Ibid, s. 13. Persons committed.

Pauper lunatics

14. The said president and visitors of the Maryland hospital, if there be room and accommodations therein, shall receive into said hospital any person who by proper authority in any county or the city of Baltimore shall be committed thereto agreeably to law, and the said president and visitors shall appropriate the one-half of the said hospital buildings to the accommodation of the pauper lunatics of this State.

1868, c. 352. Insane or lunatic convicts

15. Upon the recommendation of the board of directors of the Maryland penitentiary, the governor may remove any insane or lunatic convict confined in the penitentiary, and provide for the support, care and safe keeping of such convict in the Maryland hospital, or any State institution for the insane, and the expense thus incurred shall be defrayed by the board of directors of the penitentiary, out of the funds arising from or appropriated for that institution. [1]

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[1] 1868, c. 246, is an act to aid in the establishment of a hospital, in connection with the Washington University of Baltimore. It appropriates $10,000 for that purpose, and $2,500 annually, for sustaining the hospital.

The Maryland Inebriate Asylum was incorporated by act of 1860, c. 386, and forms Art. 46, of Code of Public General Laws.

The Maryland Insane Asylum was incorporated by acts of 1852, c. 302; 1860, c. 264; 1862, c. 234: 1864, c. 213 and c. 248, and 1868, c. 117.

1868, c. 264, entitled an act to authorize the commissioners of the Insane Hospital at Catonsville to receive inebriates as patients until the hospital for inebriates proper shall be completed, enacts that the commissioners of the Insane Hospital at Catonsville are authorized to receive inebriates as patients in said hospital, subject to the same charges and conditions as other patients, until the hospital for inebriates proper shall be completed.

1868, c. 437, entitled an act to authorize and empower the president and directors of the Maryland Insane Asylum to convey certain land to the Maryland

ORDINANCES.

No. 76, s. 1, June 20, '66. Insane asylums not to be erected within limits of direct taxation.

1. It shall not be lawful for any person or persons to erect or build, or cause to be erected or built, any lunatic or insane asylum within the limits of direct taxation.

Ibid, s. 2. Buildings already erected.

2. No building already erected, or now in course of erection within the limits of direct taxation, shall be used as an insane asylum, or for the purpose of containing insane persons; provided, however, that nothing in the provisions of this ordinance shall refer to or interfere with the Maryland hospital. Proviso.

Ibid, s. 3. Penalty.

3. Any person or persons offending against the provisions of this ordinance shall forfeit and pay the sum of one hundred dollars for every such offence, and a further sum of one hundred dollars per day for every day they shall permit any building to be used for such purpose.

No. 9, Mar. 10, '65. Appropriations to Maryland hospital and Mt. Hope institution.

4. The register of the city is authorized and empowered, with the approbation of the mayor, to pay to the president and visitors of the Maryland hospital, or to the duly authorized officer or officers of the Mount Hope institution, the sum of two hundred and fifty dollars per annum; or in proportion for any shorter period, for each and every insane pauper now in the Maryland hospital or Mount Hope institution, or who shall hereafter be sent there by order of the Criminal Court of Baltimore; provided, the amount herein provided shall not continue in force for a longer period than two years, without the consent of the mayor and city council. Proviso.

Inebriate Asylum for the uses of said institution, enacts that the president and directors of the Maryland Insane Asylum are authorized and empowered to grant and convey unto the Maryland Inebriate Asylum, for the proper uses of said institution, and the erection thereon of a suitable building or buildings, such portion of the farm now owned by the Maryland Insane Asylum, not exceeding fifty acres, as may in their judgment be spared without injury to the interests of said asylum.

The Sheppard Asylum was incorporated by the acts of 1853, c. 274, and 1858, c. 41.

ARTICLE XXVI.

HOUSE OF REFUGE.

STATUTES.

1. Subscribers to House of Refuge incorporated.
2. Who to be deemed members.
3. Managers.
4. Where members to meet: election.
5. Vacancies, how filled.
6. Failure to elect not to work forfeiture of right.
7. Quorum.
8. Officers.
9. Power to make by-laws, &c.
10. To report to General Assembly, and what.
11. Treasurer's bond.
12. Managers to provide buildings: regulations.
13. Free of tax.
14. Streets not to be made through property.
15. Whom the managers may admit.
16. Employment and instruction of children.
17. To bind them as apprentices, and how.
18. Who to be committed to House of Refuge, and how.
19. Duty of the treasurer: appropriation.
20. When vagrants committed, names of witnesses, and substance of testimony to be annexed to commitment.
21. Minors convicted of felony may be committed, and when: proviso.

ORDINANCE.

Police to aid in arrest of boys escaping from House of Refuge.

STATUTES.

P. G. L., art. 78, s. 1. Subscribers to house of refuge incorporated.

1. The subscribers to the House of Refuge are a body politic and corporate, by the name and style of the House of Refuge, 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.

2. Every person who has subscribed the articles of said association, or who shall hereafter subscribe the same, 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 the said association. Ibid, s. 2. Who to be deemed members.

3. The estate and concerns of said corporation shall be managed and conducted by twenty-four managers, of whom ten shall be elected by members of the association, and ten appointed by the mayor and city council of Baltimore, and four shall be appointed by the governor, in the month of February, annually. Ibid, s. 3. Managers.

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 ten managers. Ibid, s. 4. Where members to meet. Election.

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 four appointed by the governor, in which case the governor shall fill the vacancy. Ibid, s. 5. Vacancies, how filled.

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 held. Ibid, s. 6. Failure to elect not to work forfeiture of right.

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

Ibid, s. 8. Officers.

8. They shall appoint from their own body a president, a secretary and treasurer, and prescribe the duties of each.

Ibid, s. 9. Power to make by-laws, &c.

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 Refuge, not contrary to law, as they may deem proper, and may appoint such officers, agents and servants, as they may deem necessary to transact the business of the said corporation, and may designate their duties.

Ibid, s. 10. To report to general assembly and what.

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 Refuge, the disposition which shall be made of such minors, by instructing or employing them therein, or by binding them out as apprentices; the receipts and expenditures of said managers, and generally, all such facts and particulars as may tend to exhibit the effects, whether beneficial or otherwise, of the said association.

Ibid, 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. Managers to provide buildings; regulations.

12. The board of managers shall provide a suitable building in the city or county of Baltimore, and establish such regulations respecting the religious and moral education, training, employment, discipline, and safe keeping of its inhabitants, as may be deemed expedient and proper.

Ibid, s. 13. Free of tax.

13. The ground and the buildings which may be erected thereon for said House of Refuge shall be free of tax.

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

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

Ibid, s. 15. Whom the managers may admit.

15. The board of managers shall have power, in their discretion, to take into said house all such white 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.

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, sec. 16. Employment and instruction of children.

17. The managers of the House of Refuge 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 said children shall be bound, shall contain the covenants, and shall be recorded as prescribed by article sixth of the Code of Public General Laws, entitled Apprentices, and all the provisions of the said article in relation to white apprentices, shall apply to apprentices bound under this section. Ibid, sec. 17. To bind them as apprentices, and how.

18. The manner of receiving inmates into the House of Refuge shall be in either of the following modes, namely: First, white 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 for 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 Refuge. Second, white minors may be committed by the authority aforesaid, when complaint and Ibid, sec. 18. Who to be committed to house of refuge, and how.

due proof have been made that such minor is a proper subject for the guardianship of the House of Refuge, in consequence of vagrancy or of incorrigible or vicious conduct, and that from the moral depravity or otherwise of the parent, guardian or next friend, in whose custody such minor may be, such parent, guardian or next friend is incapable or unwilling to exercise the proper care and discipline over such incorrigible or vicious minor. Third, such children as their parents, guardians or friends may desire to place therein for temporary restraint and discipline, and whose parents, guardians or friends shall agree and contract with the managers for their support and maintenance; and fourth, minors committed by the several courts in this State, as provided in this article:[1] and the annual sum of ten thousand dollars, to commence on the tenth day of March, eighteen hundred and sixty-one, shall be appropriated out of any unappropriated moneys in the treasury, for the aid and benefit of the House of Refuge for the period of two years.

Appropriation.

Ibid, sec. 19. Duty of State treasurer.

19. The treasurer of the State shall, upon the warrant of the comptroller, pay to the managers of the House of Refuge, or as they shall order and direct, the sum appropriated in the preceding section, in equal quarterly payments of twenty-five hundred dollars each.

Ibid, sec. 20. When vagrants committed, names of witnesses and substance of testimony to be annexed to commitment.

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.

Ibid, sec. 21. Minors convicted of felony may be be committed, and when.

21. Whenever any white 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 Refuge as a place

[1] For Home of the Friendless, Children's Aid Society, &c., see Vagrants, *post*.

of reform, and not of punishment, may order said minor so convicted to be removed to and confined in the said House of Refuge; provided, that in all cases no transfer of any such minor from the counties shall be made until due notice has been given to the superintendent of said House of Refuge, and an answer received from him, that there is room in the House of Refuge for the reception of such delinquent. Proviso.

ORDINANCE.

It shall be the duty of the police of the city of Baltimore to aid in the arrest of all boys escaping from the House of Refuge, when the fact shall be duly established, and render such other aid as may tend to preserve the discipline of said House of Refuge, it being understood that the necessary expense attendant upon the arrest and removal of such person or persons shall be paid by the said House of Refuge. No. 30, s. 12, R. O. Police to aid in arrest of boys escaping from house of refuge.

ARTICLE XXVII.

INSPECTIONS, WEIGHTS AND MEASURES.

STATUTES.

INSPECTIONS.

GROUND BLACK OAK BARK.

1. Inspector of, to be licensed: cost of license.
2. Oath of office.
3. Who may, and who may not, have license.
4. Persons may buy and sell without inspection: in case of dispute, inspector to decide.
5. Inspector, when called on, to inspect and mark.
6. Pay for inspection.
7. Penalty for inspecting without license.
8. Penalty, how recovered and accounted for.
9. Manufacturer or owner may mark casks.
10. Inspector not to act out of city, and penalty therefor.

COAL.

11. Inspector of, to be licensed: cost of license.
12. Oath of office.
13. Who may and who may not be inspector.
14. Anthracite coal, how to be sold.

15. Bituminous coal, how to be sold.
16. Retailing coal: anthracite or hard coal.
17. Any person may sell without inspection: inspector to decide disputes.
18. Duty and pay of inspector.
19. Shall not act out of the city.
20. Penalty for inspecting without license or out of city.

FISH.

21. Appointment of inspector of salted fish.
22. Inspector's bond.
23. His duty.
24. Compensation.
25. Coopers under control of inspector.
26. Cooper refusing to leave when discharged: penalty.
27. Salted fish to be inspected.
28. How inspected and branded.
29. How branded when of superior quality.
30. What to be branded.
31. Appeal from judgment of inspector.
32. Manufacture of barrels, &c.
33. Casks for exportation.
34. Fraudulent packing: penalty.
35. Non-inspection: penalty.
36. False branding: penalty.
37. Restrictions on inspector.
38. Overcharging: penalty.
39. Inspector to attend in city: penalty.
40. Fines and forfeitures, how recovered.

FLOUR.

41. Governor to appoint inspector-general and four assistants.
42. Bond of inspectors.
43. Standard of flour, how established.
44. General inspector to keep an office: standard to be kept there subject to inspection.
45. General to supervise assistants.
46. To report conduct to governor annually.
47. Governor to suspend assistant on recommendation of general inspector.
48. Mayor to appoint deputy in place of suspended inspector.
49. Assistant to obey general inspector, and penalty for neglect.
50. Drawings to be kept and sold by general inspector.
51. Assistants to account monthly: proceeds.
52. Proceeds and expenses to be divided.
53. When assistant sick, general inspector to perform duty of.
54. Charge for inspection.
55. Inspectors to brand, and how: penalty for any other person branding.
56. Dimensions of letters of brand.
57. Reviewers to make oath: duty of reviewers.
58. No barrel to be condemned that can be repaired: to be repaired at expense of owner: inspector to direct repair and give certificate to owner: what certificate shall state, and penalty for not giving.
59. Owner may substitute new barrel: or make deduction in price: inspector to certify what defect is.
60. General inspector to send standard to Frederick and Williamsport.
61. Penalty for neglect.
62. Fines and forfeitures, how recovered.
63. Barrels with less than ten hoops may be inspected.
64. Flour inspected in Frederick or Williamsport not to be re-inspected.
65. When flour, &c. to be inspected.
66. Penalty for erasing inspection marks.
67. Standard weight of flour: penalty for marking false weight: inspector may unpack.
68. To whom forfeitures paid and how collected.

GAUGER OF CASKS AND INSPECTOR OF DOMESTIC DISTILLED LIQUORS.

69. How and when appointed: cost of license.
70. Oath of office.
71. No trader in liquors to be licensed.
72. Liquors may be sold without being gauged: in case of dispute, gauger may decide.
73. Gauger, upon request, to gauge: to brand and keep record of brand: fee for copy of record.
74. Mode of gauging.
75. Marks, &c.
76. Capacity, &c.
77. Marks to be defaced when casks empty, and penalty for neglect.
78. To give certificate of quantity.
79. To conform to Baltimore standard: penalty for false gauge.
80. To use hydrometer used by United States.
81. Penalty for altering or forging marks.
82. Fees for gauging.
83. Not to gauge out of the city.
84. Penalty for acting without license or out of city.

GRAIN.

85. Governor to appoint inspector-general and four assistant inspectors of.
86. Oath of inspectors.
87. Bond of inspector general.
88. Bond of assistants.
89. Comptroller may order suit on bond.
90. Grain arriving, to be reported to inspector, and weighed by him: penalty against him for not weighing all grain within two hours after report.
91. Office hours prescribed: assistant inspector to attend in absence of inspector-general.
92. Inspection, how to be made.
93. Samples, how disposed of.
94. Inspector general to decide all controversies between buyer and seller.
95. His decision, how enforced.
96. All grain to be weighed.
97. Not to be weighed or inspected after sale: inspector not to deal in, and penalty for.
98. Penalty for receiving gratuity.
99. No contract to be rescinded after lapse of six hours.
100. Penalty for altering samples.
101. Right of appeal given.
102. Inspector to make returns to inspector-general: charges for inspection.
103. Inspector-general to make returns to comptroller.
104. Inspector's fees: proviso.
105. How grains weighed: proviso.
106. Penalty for refusing to accept grain sold by sample: how recovered.
107. What grain to be inspected: standard of grain.
108. Remedy of vendor of grain.
109. Pay of inspectors.
110. Penalty for failing to make returns.
111. Penalty for false return.
112. Bond to be sued on failure to return.
113. Treasurer to keep account with grain fund: to invest balance to credit of fund.
114. Inspector-general may appoint and dismiss assistants: may fix their compensation.
115. None but inspector to weigh or measure.

GUANO.

116. Governor to appoint inspector of.
117. Notice to be given to inspector of all guano imported.
118. Inspector to analyze, and how: to mark each package or bag.
119. If in bulk, to mark bag or package in which put: to give certificate of analysis, with name of vessel.

120. To mark on each bag, &c. place of inspection and weight.
121. To keep an office, and therein all analyses, and give copies.
122. To publish analyses.
123. Fees for inspection.
124. All guano must be inspected: penalty.
125. Penalty for neglect.
126. Penalty for selling without inspection mark: penalty for forging inspector's mark.
127. Sections relating to guano to be construed liberally.

FERTILIZERS OTHER THAN GUANOS.

128. Inspector of fertilizers other than guanos: his duties: certificate: to be published.
129. Analysis of manures to be published.
130. Office: record.
131. Neglecting, &c. to have manure, &c. in bags, &c., inspected: penalty.
132. Neglecting, &c. to have manure in bulk inspected: penalty.
133. To be marked by inspector before sale: penalty.
134. Fees.
135. Inspector to be a chemist: term of office: by whom appointed: bond.

HAY AND STRAW.

136. Governor to appoint two inspectors of.
137. Each inspector to give bond.
138. Standard: to be weighed at State scales.
139. Inspector's fees.
140. Inspector to sell portable scales.
141. To give certificate of every load weighed: what certificate to contain.
142. Neglect, &c. to have hay and straw weighed: penalty.
143. Selling, &c. without inspection: penalty.
144. May re-weigh wagons free of charge: if required to do so, entitled to pay.
145. Inspectors may weigh other articles.
146. Where scales to be placed.
147. Additional pay of inspector.
148. Weighing apparatus to be adjusted monthly.
149. Inspectors to account to treasurer quarterly.
150. Another inspector to be appointed: his duties, &c: fees for weighing.
151. Inspector's duties: charges.
152. Record of expenditures, &c.
153. May impound for charges: proviso.
154. Inspector neglecting to weigh, &c.: penalty.
155. Inspector's bond.
156. Appointment of additional inspector.
157. Inspector to conform to provisions requiring of other inspectors.
158. Penalties, how recovered.

LEATHER.

159. Inspectors of, may be licensed.
160. Oath of office.
161. No trader in to receive license.
162. Any person may sell without inspection: inspector to decide disputes.
163. Inspector to provide scales, weights, &c.: to inspect upon request: mode of inspection.
164. Liability for false inspection.
165. Penalty for delay to inspect.
166. Appointment and duty of arbitrators.
167. Appeals to arbitrators, when to be made.
168. Oath of arbitrators.
169. Pay of arbitrators, and by whom paid.
170. Fees of inspectors.
171. Inspector to report annually to register.
172. Penalty for counterfeited stamps.
173. Inspector not to act out of city.

174. Owner may stamp quantity or quality on: penalty for acting without license or acting out of city.

LIME.

175. Inspectors of, may be licensed; cost of license.
176. Oath of office.
177. No person trading in, to be licensed.
178. Any person may sell without inspection; inspector to decide in cases of dispute.
179. Inspector to measure in bulk or cask; if in bulk, to give certificate of quantity and quality; if in cask, to mark cask.
180. To be measured by Winchester bushel.
181. Pay of inspectors.
182. Lime below standard to be condemned.
183. Penalty for deceit in loading or selling in casks: penalty for selling part of load after obtaining certificate: penalty for selling or exchanging certificate.
184. Inspector may annul certificate when satisfied of fraud.
185. Mayor to appoint board of appeal, and duty of.
186. Party failing on appeal to pay expenses.
187. Pay of members of board.
188. Oath of members of board.
189. Buyer or seller may appeal from inspector to.
190 License not to authorize sale out of city.
191. Penalty for inspecting without license, or inspecting out of city.
192. Fines and penalties, how recovered.

LIVE STOCK.

193. Governor to appoint weighmaster of.
194. Bond of weighmaster.
195. What stock to be weighed.
196. Weighmaster to weigh all stock presented; to give certificate of weight to owner.
197. Charges for weighing.
198. To keep record of all weights: to keep accounts of receipts and expenses: books to belong to the State.
199. To render quarterly account to comptroller.
200. To number pens, and number they hold.
201. To put cattle in pens without separating droves.
202. To make alterations in pens, yards, &c.: provisos: U. S. stock to have priority.
203. May impound for weighing fees; proviso.
204. May employ additional clerks, &c.: salaries.
205. Salary of weighmaster, and salaries how and when paid.
206. Penalty for delaying to weigh.
207. Penalty for selling without being weighed.
208. Penalty for buying without being weighed.
209. Police commissioners to have authority over premises.
210. Grounds may be enlarged: how purchases shall be made.
211. Proceedings in cases of tort, trespass, &c.
212. Jurisdiction of Criminal Court extended over premises.

LUMBER.

213. Inspectors of, may be licensed: charge for license.
214. Oath of office.
215. No dealer in to receive license.
216. All lumber to be inspected, unless before inspected.
217. To be inspected and sold by measure.
218. Contents to be marked on each piece: penalty for altering mark.
219. Fees of inspectors.
220. How disputes to be settled.
221. Pay of arbitrators.

222. Penalty for selling without inspection.
223. Inspector not to act out of city.
224. Penalty for inspecting without license, or out of city.

MANURE.

225. Contents of load.

OYSTERS.

226. How oysters to be sold: penalty.

TOBACCO.

227. Appointment of inspectors.
228. To take oath: bond.
229. How damages recovered against inspector.
230. Where suit brought.
231. Inspectors' duties: compensation.
232. To have control of wharf in front of warehouse.
233. Ten hours per day labor.
234. When inspector may appoint substitute.
235. Inspector to take charge of tobacco, and liable for same.
236. Each hogshead to be numbered, &c.
237. Cooperage.
238. Speedy inspections.
239. Each hogshead to be weighed, &c.
240. To be marked.
241. Samples.
242. Maryland and Ohio tobacco.
243. Tobacco from other States.
244. Samples, how disposed of.
245. Seal of warehouse.
246. Weight of tobacco cut off.
247. When duplicate certificate to issue.
248. Owners may return samples and certificates.
249. Injured tobacco.
250. Stayed tobacco.
251. What owner to pay.
252. Storage.
253. Outage.
254. Scrap tobacco.
255. Disposition of tobacco in warehouse, four years.
256. Inspector to report to comptroller.
257. Owner to be refunded.
258. How tobacco removed in case of accumulation.
259. Tobacco owned by inspectors, &c.
260. Not to be engaged in purchase of tobacco.
261. To allow no interference in inspecting, &c. tobacco.
262. Printed notices to be set up.
263. Inspector receiving gratuity: penalty.
264. Employee, same: penalty.
265. Offering bribe to inspector: penalty.
266. Erasing or altering marks: penalty.
267. Tobacco carried out of State must be inspected.
268. Dimensions of casks.
269. Detailed statements to be furnished comptroller.
270. Surplus receipts.
271. Inspectors' salaries.
272. Books open to inspection.
273. Proceedings to recover fines and forfeitures.
274. Tobacco fund.
275. Appropriation of fines.
276. Act to be furnished inspector.
277. Statements to be published.
278. Warehouses to be cleaned.
279. Rooms for sales at auction.
280. Auctioneers.
281. Auctioneers' bond.
282. Duty of auctioneers: compensation: rules and regulations.
283. Re-payments.
284. Storage.

TOBACCO MANIFESTS, &C

285. Evidence

COUNTERFEITING, &C., MANIFESTS, &C.

286. Counterfeiting manifest, &c., of tobacco inspector: altering note, &c.: offering forged note, &c.
287. Exporting tobacco with forged mark: demanding tobacco on forged note or manifest.
288. Inspectors to brand hogsheads of tobacco: penalty for changing brand or branding falsely.

289. Branding hogshead to evade tobacco laws, how punished.

WOOD.

290. Biennial appointment of inspectors and corders of wood: oath.
291. City to be districted, and how.
292. Mayor to assign districts.
293. Dimensions of cord.
294. Penalty for inspecting out of district.
295. What to be inspected, and how: penalty for receiving without inspection.
296. Who may be inspector.
297. Penalty for acting without appointment.
298. Tax on inspector's commission.
299. Inspectors to give certificate of quantity.
300. Persons aggrieved may apply to mayor to appoint reviewers.
301. Reviewers not to be dealers in wood: oath of reviewers.
302. Appeal to be made and tried before sunset.
303. Reviewers to give notice to parties: to be satisfied that notice has been given: and that the wood remains entire.
304. Inspector, when and to what extent responsible: proviso.
305. Report and pay of reviewers.
306. Fees of inspectors.

WOOD ON WHARVES.

307. Penalty for excessive wharfage on wood.
308. Wood may be loaded on State wharves: not to interfere with tobacco.
309. Wharfage on wood.

CITY INSPECTIONS.

310. Power to pass ordinances regulating inspections in city.

WEIGHTS AND MEASURES.

311. Corporation to make standards conform to State standards.
312. To regulate assize of bread and size of bricks.

ORDINANCES.

INSPECTIONS.

FLOUR.

1. Appointment of reviewers of flour: two millers, two bakers, and two merchants: reviewers appointed on appeal: oath: pay.

GAS METERS.

2. Inspector and sealer of gas meters appointed: bond: oath.
3. His duties.
4. Apparatus.
5. To inspect and prove gas meters: fee to inspector: when fee to be returned: gas company: two per cent.: appeal: referee.
6. New meter to be inspected: penalty against gas company: fine.
7. Meters to be sealed and stamped.
8. Inspector to visit premises: instructions: fee.
9. Inspectors' record: report to mayor: fees.
10. Counterfeiting or defacing seal: penalty.

ILLUMINATING GAS.

11. Inspector of illuminating gas appointed: gas company: bond of inspector: oath.
12. Duties of inspector: report.
13. Quality of gas: illuminating power.
14. Defective gas: penalty: proviso.
15. Apparatus.
16. Salary.

HAY AND STRAW.

17. Sale of hay and straw regulated: penalty.

REPORTS OF INSPECTORS.

18. Inspectors to report quarterly to mayor.

STREETS.

19. Inspection of goods on streets regulated: penalty.

WEIGHTS AND MEASURES.

20. Keepers of standards appointed: bond: two keepers of weights and liquid measures, and one keeper of dry and long measures.
21. Offices.
22. Comptroller to procure sets of weights and measures.
23. What the standard shall be.
24. Inspectors to adjust weights and measures: penalty.
25. Dimensions of dry measures.
26. Weights, &c. to be stamped: penalty.
27. Stamp for dry measures: penalty for counterfeiting.
28. Scale beams to be stamped: penalty.
29. Patent balances, &c. to be stamped and inspected once in each year: penalty.
30. When found untrue, to be condemned: penalty for using condemned balances, &c.
31. Penalty for using altered weights, &c.
32. Fees of standard keepers.
33. To inspect once a year, and no oftener.
34. Penalty.
35. To visit markets, stores, &c., to inspect weights, &c.
36. Penalty for refusal to allow inspection: duties of inspectors and clerks of markets.
37. Annual return to register.
38. Additional compensation.

CANDLES.

39. To be sold by weight: penalty.

CHARCOAL.

40. Measurer of charcoal appointed: deputies: oath.
41. Mayor to designate stands.
42. Charcoal to be measured.
43. Retailers of charcoal exempt.
44. Standard for measuring.
45. Measurer not to deal in charcoal.
46. Penalty for fraud.
47. Retailing charcoal license

COAL.

48. How anthracite coal to be sold: penalty.

FIREWOOD.

49. Sale of firewood regulated: penalty: proviso.

ICE.

50. To be sold by weight.
51. Standard weight: penalty.

STATUTES.

GROUND BLACK OAK BARK.

P. L. L., art. 4, sec. 273. Inspector of, to be licensed. Cost of license.

1. Any free white citizen of the State of Maryland, on application to the clerk of the Court of Common Pleas in the city Baltimore, and on paying to the said clerk the sum of one hundred dollars, shall be entitled to receive a license to act as inspector of ground black oak bark for the term of one year from the date of said license.

Ibid, sec. 274. Oath of office.

2. The person so licensed shall, at the time of the granting thereof, take and subscribe before the said clerk an oath that he will honestly and faithfully discharge the duties of the said office.

3. No person shall be entitled to such license who is engaged individually or as a partner in, or as an agent, clerk, or employee of, a trader, vendor or manufacturer in manufacturing, vending, or trading in ground black oak bark. Ibid, sec. 275. Who may and who may not have license.

4. Any person may buy, sell, export, or otherwise dispose of ground black oak bark, without having the same inspected or weighed, but in all cases of difference between the buyer and seller as to the quantity and quality of said article, either party may call in any licensed inspector of the article, and his judgment shall bind the parties. Ibid, sec. 276. Persons may buy and sell without inspection. In case of dispute, inspector to decide.

5. The person so licensed, when called upon, shall weigh and inspect each cask, bag, box or package, and mark thereon, in plain legible characters, the weight and quality of the bark contained therein. Ibid, sec. 277. Inspector, when called on, to inspect and mark.

6. Each licensed inspector shall be allowed the sum of seventy-five cents per ton for every ton weight of bark of twenty-two hundred and forty pounds by him inspected and marked. Ibid, sec. 278. Pay for inspection.

7. Any person not having a license to act as such inspector who shall so act, shall forfeit and pay to the sheriff of the city the sum of two hundred dollars. Ibid, sec. 279. Penalty for inspecting without license.

8. The said penalty shall be imposed as a fine by the Criminal Court of said city on presentment or indictment by the grand jury and conviction in due course of law; and one-third of said penalty shall be paid by the sheriff to the informer, and the residue shall be accounted for by the sheriff to the treasurer of the State as other fines and forfeitures. Ibid, sec. 280. Penalty, how recovered and accounted for.

9. Nothing contained in this article relating to the inspection of bark shall be construed to forbid the manufacturer or the actual and bona fide owner of ground black oak bark from marking or stamping on the cask, bag, box or package containing the same, the quantity or quality thereof. Ibid, sec. 281. Manufacturer or owner may mark cask.

10. No license shall authorize such inspector to act out of the limits of the city, and any person who shall act as such Ibid, sec. 282. Inspector not to act out of city.

Penalty.

out of said city shall forfeit and pay the sum of two hundred dollars, to be recovered and applied as hereinbefore directed.[1]

COAL.

Ibid, sec. 283. Inspector of, to be licensed. Cost of license.

11. Any free white citizen of the State of Maryland, on application to the clerk of the Court of Common Pleas in Baltimore city, and on paying said clerk the sum of one hundred dollars, shall be entitled to receive a license to act as inspector of coal for the term of one year from the date thereof.

Ibid, sec. 284. Oath of office.

12. The person applying for such 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.

Ibid, sec. 285. Who may and may not be inspector.

13. No person engaged in the vending or trading in coal, individually or as a partner, or as agent, clerk or employee of a trader or vendor of coal, shall be entitled to a license to act as inspector of coal.

Ibid, sec. 286. Anthracite coal, how to be sold.

14. All anthracite or hard coal sold within this State shall be sold by the ton, and twenty-two hundred and forty pounds shall be allowed to the ton.

Ibid, sec. 287. Bituminous coal, how to be sold.

15. All bituminous coal sold in this State shall be sold by measure, and no measure shall be used but those that have been proved and stamped by the proper officer, except foreign coal subject to duty, in which case the measure of the general government shall be used.

Ibid, sec. 288. Retailing coal; anthracite or hard coal.

16. No person shall retail coal in the city of Baltimore without a suitable scale approved of by the inspector of weights for said city, and no person shall sell anthracite or hard coal from a vessel without using a suitable scale approved as aforesaid.

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[1] The act of 1854, c. 200, forming sections above of Code, is a constitutional exercise of legislative power. *Davis* v. *State*, 7 Md., 151.

17. Any person may sell, export or otherwise dispose of coal, without having the same weighed or measured by a licensed inspector, but in all cases of differences between the buyer and seller as to the quantity and measurement, either party may call in an inspector, and his judgment shall bind the parties. Ibid, sec. 289. Any person may sell without inspection. Inspector to decide disputes.

18. The inspector so licensed shall, upon request, weigh and measure any coal sold in said city, and shall be entitled to demand and receive ten cents for every ton of hard coal weighed, and the same amount for every thirty bushels of bituminous coal measured. Ibid, sec. 290. Duty and pay of inspector.

19. No license shall authorize any inspector of coal to act as such without the limits of the city. Ibid, sec. 291. Not to act out of city.

20. Any person not having a license, who shall act as inspector of coal, or who having a license shall act as such inspector without the limits of the city, shall forfeit any pay to the sheriff of the city the sum of two hundred dollars; said penalty to be imposed as a fine by the Criminal Court on presentment or 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. Ibid, sec. 292. Penalty for inspecting without license or out of city.

FISH.

21. The governor, by and with the advice and consent of the senate, shall biennially appoint an inspector of salted fish in the city of Baltimore. 1865, c. 192. Appointment of inspector of salted fish.

22. The inspector so appointed shall enter into bond to the State of Maryland, with good and sufficient securities, to be approved of and retained by the treasurer, in the penal sum of two hundred dollars, conditioned for the true and faithful discharge of his duties as inspector. Ibid. Inspector's bond.

23. It shall be the duty of said inspector to inspect all salted fish except such as have been inspected agreeably to the laws of the county or State from which they came. Ibid. His duty.

Ibid. Compensation.

24. The said inspector shall receive for the inspection of each barrel, half barrel, or tierce of herrings, five cents; for each barrel, half barrel, or tierce of shad, fifteen cents; and for each kit, or quarter barrel of herrings or shad, three cents.

Ibid. Coopers under control of inspector.

25. All coopers who may be engaged in the re-cooperage of fish during the time of inspection, shall be under the control of the inspector, who may discharge any cooper who shall refuse, fail or neglect to perform his duties in a workmanlike or satisfactory manner.

Ibid. Cooper refusing to leave when discharged. Penalty.

26. If any cooper shall refuse to leave any casks aforesaid, after having received his discharge as aforesaid, and shall persist in working thereon, he shall forfeit and pay the sum of twenty dollars.

Ibid. Salted fish to be inspected.

27. Whenever any uninspected salted fish shall be brought to the city of Baltimore, the owner, owners, or his or their agents shall, within forty-eight hours after the landing of the same, deliver to the inspector a written report containing the number and kinds of casks of fish, and the place or places where they may be deposited, so that the same may be inspected, under the penalty of one dollar for each cask inspected and neglected to be reported.

Ibid. How inspected and branded.

28. The inspector shall see that all salted fish so offered for inspection shall have been well struck with salt or pickle, in the first instance, and preserved sweet and free from rust, taint or damage, and all such fish of a good and fat quality, with sweet pickle in the barrel, and sufficient salt to preserve the fish therein contained, shall be branded shad, or other fish, as the case may be, number one; those which are not so good, though sound and free from taint, shall be branded number two, and such as are not sound, or are very materially tainted and damaged, shall be condemned and marked a broad arrow in the bilge of the barrel or other cask, as the case may be.

Ibid. How branded when of superior quality.

29. When the inspector shall, upon examination, adjudge and determine any fish to be of a very superior quality, and the owner or owners shall furnish him with a branding iron,

with the first letter of his christian name, and surname at full length, or the name of the firm at full length, the inspector shall add the word prime to No. 1, and also the brand of the owner, and shall receive the sum of ten cents for each cask in addition to the usual inspection fee.

Ibid. What to be branded. Proviso.

30. The inspector shall also, upon each cask inspected by him brand his name, the word Baltimore, the name of the month and the year in which inspected, and the word spring; provided he believes the fish contained in such cask were caught in the spring of the year in which inspected.

Ibid. Appeal from judgment of inspector.

31. If any person shall think himself aggrieved by the judgment of the inspector, he may at his option sue his bond, or may apply to the mayor of the city of Baltimore, who shall thereupon issue his warrant, directed to three disinterested persons, well skilled in the goodness, quality and well curing of salted fish, to review and examine the same, which said three persons, after having taken the oath of office as reviewers, shall carefully review and examine the same, and if they, or any two of them, shall declare the same to be sound, or merchantable, the inspector shall erase the broad arrow, and put such brand on the cask containing the fish as the reviewers, or any two of them, may determine, and the corporation shall be allowed six cents a barrel for storage if stored; and if, upon such appeal and review, the judgment of the inspector shall be confirmed, the person appealing shall pay such storage, and shall pay the same if the appeal be not prosecuted.

Ibid. Manufacture of barrels, &c.

32. All barrels and tierces which shall be made and used for the purpose of packing, or containing packed fish, shall be made of sound, well seasoned oak, ash, chestnut, pine or cypress staves, free from flaws or worm holes, of light timber, not less than half an inch thick, with headings of the same kinds of wood, not less than five-eighths of an inch thick, and sound and well seasoned; the heading to be planed or shaved, the barrels and tierces to be well hooped, with at least three hoops on each bilge, and three hoops on each chime, all of

sufficient substance; the barrel staves, twenty-eight inches in length, the heads seventeen inches between the chimes, the barrels or tierces to be twenty-eight inches across the bilge, and to hold twenty-eight gallons; and the barrels, half barrels and tierces shall be made in a good and workmanlike manner, so as to hold pickle; the tierces shall contain not less than forty-five gallons, and the half barrels not less than fifteen gallons; quarters shall contain eight gallons, and kits four and a half gallons; provided, that all barrels, half barrels or tierces made or used for the purpose of packing or containing pickled shad shall be made of white oak, pine or cypress, and shall have at least four hoops on the chime, and three on the bilge; and provided, also, that nothing contained in this law shall apply to fish in kegs of less than ten gallons.

Provisos.

Ibid.
Casks for exportation.

33. The inspector may require any cask to be filled up by the owner or owners, and by him or them re-packed or re-pickled, and in all respects completed in such manner as they shall direct, for the purpose of having the same made fit for exportation; any owner or person by him employed, refusing or neglecting to comply herewith, shall forfeit and pay five dollars for each offence.

Penalty.

Ibid.
Fraudulent packing.

34. If any herrings or other fish hereby required to be inspected shall, on examination thereof by the inspector, prove to be falsely packed, that is to say, the fish in one part of the cask of different or inferior quality from the other, or packed with any improper or unfit substances, with intent to defraud, the owner or agent shall forfeit and pay for each cask the sum of five dollars.

Penalty.

Ibid.
Non-inspection.

35. If any person shall export, or lade for exportation, from the port of Baltimore, or shall sell and deliver for exportation from the said port, any shad or herring before the same shall have been inspected and approved and branded and marked according to law, such person shall forfeit and pay for every cask thereof so exported or laden, or sold and delivered, one dollar.

Penalty.

36. If the inspector shall place any mark or brand on any barrel or cask, other than its condition requires, he shall forfeit an amount equal in value to the barrel or cask thus wrongfully marked; provided, that nothing contained in this section shall hold such inspector responsible for such forfeiture for a longer time than one month after such fish have been inspected. Ibid. False branding. Penalty. Proviso.

37. The inspector shall not purchase, directly or indirectly, any salted fish by him condemned, or any other fish whatever, other than for his family use; nor shall he directly or indirectly be concerned in making, rendering or furnishing any cask or casks for the purpose of packing, re-packing, or curing any fish brought to, packed in or exported from the city of Baltimore; nor shall he be concerned in the cooperage of any cask containing fish that may be inspected in said city; nor shall he sell or furnish any salt for the curing or salting of any fish that shall be inspected in said city, under the penalty of forfeiting and paying for every offence five dollars. Ibid. Restrictions on inspector. Penalty.

38. If the inspector shall charge or receive any greater fee or reward for inspection than is allowed by this article, he shall forfeit and pay the sum of fifty dollars, to be adjudged on indictment and conviction in the Criminal Court of Baltimore, one-half to the informer, and the other half to the use of the State. Ibid. Overcharging. Penalty.

39. It shall be the duty of the inspector promptly to obey any notice he may receive requiring his attendance in any place in said city, and should he refuse to attend after receiving such notice for the space of four hours, he shall be liable to a fine of ten dollars. Ibid. Inspector to attend in city. Penalty.

40. All fines and forfeitures herein imposed, except as hereinbefore provided, if over one hundred dollars, shall be recoverable by suit in the name of the State, in the Criminal Court of Baltimore, and if under one hundred dollars, before a jus- Ibid. Fines and forfeitures, how recovered.

tice of the peace, one-half to the informer, and the other half to the use of the State.[1]

FLOUR.

Ibid, sec. 330. Governor to appoint general inspector and four assistants.

41. The governor, by and with the advice and consent of the senate, shall biennially appoint one general inspector and four assistant inspectors of flour for the city of Baltimore.

Ibid, sec. 331. Bond of inspectors.

42. Each inspector so appointed shall enter into bond to the State of Maryland, with good and sufficient securities, to be approved by the governor, in the penal sum of ten thousand dollars, conditioned for the true and faithful discharge of his duties as inspector.

Ibid, sec. 332. Standard of flour, how established.

43. The general inspector, upon consultation with the other inspectors and two commissioners of review, to be designated for that purpose by the mayor, shall fix a standard of flour of each degree of fineness for the regulation of the inspection thereof in said city, which standard shall not be inferior in quality to flour of the best brands of any other inspection in the United States, and the said standard shall be renewed semi-annually.

Ibid, sec. 333. General inspector to keep an office.

Standard to be kept there subject to inspection.

44. The general inspector shall keep a public office in some convenient place in said city, and shall procure samples which shall be quarterly renewed, of the most approved brands of flour of the inspection of other places, and shall keep said samples and the standard fixed as directed in the preceding section at the said office, subject at all times, in the presence of the said general inspector, to the examination of the citizens of this State, or other persons concerned in the purchase or sale of flour therein.

Ibid, sec. 334. General to supervise assistants.

45. He shall diligently superintend the assistant inspectors at the places where they shall be employed in the discharge of their official duties, and by a frequent comparison of the flour which they shall inspect with the standard, shall ascer-

[1] The act of 1865, c. 192, repealed sections 293 to 329 inclusive of the Code, art. 4, P. L. L., and 1864, c. 369, relating to the inspection of salted fish in Baltimore city, and enacts the above sections, 21 to 40 inclusive, in lieu thereof.

tain whether they and each of them regulate the inspection conformably to said standard.

Ibid, sec. 335. To report conduct to governor annually.

46. He shall annually, on the thirtieth day of November, report to the governor the conduct of the different assistant inspectors, both as to their observance of the established standard of inspection, and their diligence in performing their official duties in their respective districts.

Ibid, sec. 336. Governor to suspend assistant on recommendation of general inspector.

47. He shall, if upon a careful and impartial examination, be satisfied that either of the said assistant inspectors wilfully or through ignorance, has put upon any cask of flour a brand designating a lighter or inferior degree of fineness than according to the true quality of such flour ought to be put thereon, suspend the said assistant inspector from his office, and lay a statement in writing of the grounds of such suspension, with an affidavit of the truth thereof, before the governor, and the governor shall continue such suspension, or re-instate the assistant inspector, as the circumstances of the case may in his judgment require.

Ibid, sec. 337. Mayor to appoint deputy in place of suspended inspector.

48. The mayor of the said city shall appoint a deputy to perform the duties of any suspended assistant inspector, if necessary, during such suspension, who shall receive the compensation to which the suspended assistant inspector would be entitled if not suspended.

Ibid, sec. 338. Assistant to obey general inspector.

49. It shall be the duty of each assistant inspector promptly to obey any notice he may receive of his presence being required in any place or places in the inspection district of the city to which he shall belong for the time being; and if he refuse or neglect to obey such notice for a longer time than two hours after it has been given, he shall forfeit and pay the sum of three dollars.

Penalty.

Ibid, sec. 339. Drawings to be kept and sold by general inspector.

50. The drawings which the inspectors shall take from the casks inspected by them, shall, as soon as conveniently may be thereafter, be deposited in some suitable place in said city to be designated by the general inspector, and shall be sold by the said general inspector in such manner and at such times as he shall think most advantageous.

Ibid, sec. 340. Assistants to account monthly.

51. The assistant inspectors shall, at the end of every month, render to the general inspector an account under oath, and pay over to him all moneys received by them for their services as inspectors, or for charges of inspecting; and the said general inspector shall monthly divide, in equal portions, among the said inspectors and himself, the amounts so received by him, and also the proceeds of the sales of the drawings directed to be sold by him under the last preceding section.

Proceeds.

Ibid, sec. 341. Proceeds and expenses to be divided.

52. The general inspector and assistant inspectors shall apportion among themselves the whole of the expenses of their respective offices, and each shall bear and pay an equal part of such expenses.

Ibid, sec. 342. When assistant sick, general inspector to perform duty.

53. It shall be the duty of the general inspector to perform the duties of an assistant inspector during the absence of any one of said inspectors on account of sickness, or any other cause.

Ibid, sec. 343. Charge for inspection.

54. The general inspector and assistant inspector shall be entitled to charge one cent for each barrel or half barrel inspected by them, and any inspector who shall demand or receive any greater sum, shall forfeit the sum of twenty dollars for each offence.

Ibid, sec. 344. Inspectors to brand, and how.

55. The inspector shall, at the time of inspecting each barrel and half barrel of flour, brand thereon the year and month of his so inspecting it, and if of a superior quality to that denominated and branded "superfine," but not of the quality of "family," he shall brand the same "extra," and if of a superior quality to that denominated and branded "extra," he shall brand it "family," which brand shall be considered the best or finest brand; and if any person or persons other than the inspectors of flour, duly appointed, shall place the said brands on any cask, barrel or half barrel, he shall forfeit and pay not less than five nor more than twenty dollars.

Penalty for any other person branding.

Ibid, sec. 345. Dimensions of letters of brand.

56. The dimensions of the letters of every brand used by the inspectors shall be three-eighths of an inch in length.

57. In all cases of appeal from the judgment of any inspector, the three persons who shall review the same shall first take an oath to decide the case to be reviewed agreeably to the standard fixed as aforesaid, and shall proceed to view and carefully examine the flour in question, and compare the same with said standard; and if they, or any two of them, upon such comparison, shall reverse the judgment so appealed from, the inspector whose judgment is so reversed, shall put on the cask or casks containing the flour, such brand as the said three persons, or any two of them, shall declare to be agreeable to the standard.

Ibid, sec. 346.
Reviewers to make oath.
Appeal.
Duty of reviewers.

58. No person shall condemn any flour barrel or half barrel which can, in his opinion, be repaired at a reasonable expense; and it shall be the duty of the several inspectors, under the penalty of five dollars for each barrel, in all cases where they pronounce a barrel or half barrel to be unmerchantable and capable of being made merchantable, to direct the same to be repaired at the expense of the owner or his agent, and delivering at the same time to the owner or his agent, a certificate stating the brand and cooper's mark, with the defect or defects of the same, and whether the cause of such defect or defects are, in his opinion, owing to the neglect of the cooper, wagoner, miller, or otherwise, as the case may appear to said inspector, with the necessary costs of repairing the same.

Ibid, sec. 347.
No barrel to be condemned that can be repaired
To be repaired at expense of owner.
Certificate to owner.
Penalty.

59. If any barrel shall have been so damaged or otherwise defective as not to admit of its being repaired, it shall be lawful for the owner or his agent to substitute a good and sufficient barrel, and pay for the packing of the same, or to make such deduction from the flour as may be agreed upon between the vendor and purchaser; and the inspector inspecting such damaged or defective barrel shall, under the penalty of five dollars, certify to what in his opinion such damage or defect is owing.

Ibid, sec. 348.
Owner may substitute new barrel, or make deduction in price.
Inspector to certify what defect is.

60. The general inspector shall, within ten days after the standard of flour is fixed as directed by this article, send to the inspectors of the city of Frederick and the town of Wil-

Ibid, sec. 349.
General inspector to send standard to Frederick and Williamsport.

liamsport, a fair specimen of the standard and of the samples of flour required to be kept by him.

Ibid, sec. 350. Penalty for neglect.

61. If the general inspector shall fail to fix the standard as required by this article, or shall fail to send the same and the samples mentioned in the last preceding section, to the inspectors of flour at the city of Frederick and town of Williamsport, within the time therein prescribed, he shall forfeit and pay the sum of fifty dollars, to be recovered by action of debt, one-half to the use of the informer, the other half to the use of the State.

Ibid, sec. 351. Fines and forfeitures, how recovered.

62. All fines and forfeitures incurred under this law shall be recoverable in the name of the State before a justice of the peace as small debts are recoverable, the one-half to the use of the informer, the other half to the use of the State.

Ibid, sec. 352. Barrels with less than ten hoops may be inspected.

Proviso.

63. Flour brought from other States into this State shall be inspected, passed and branded by the said inspectors in like manner as flour made in this State, notwithstanding the barrels from other States have not ten hoops on them; provided such barrels have at least six broad hoops thereon.

Ibid, sec. 353. Flour inspected in Frederick,

64. Flour inspected in Frederick city or Williamsport shall not be subject to inspection in the city of Baltimore.

1862, c. 254, s. 1. Wheat flour, rye flour and corn meal.

65. Each and every barrel and each and every half barrel of wheat flour, of rye flour and of corn meal, which shall be offered for sale in the city of Baltimore, or which shall be sent therefrom, sold or unsold, either by land or water, to any other place, whether manufactured within the limits of said city or elsewhere, shall first be inspected, passed and branded, or otherwise distinctly marked by one of the flour inspectors for the city of Baltimore, unless the same shall previously have been duly inspected, passed and branded, or otherwise distinctly marked by a flour inspector in Frederick city, or Williamsport, or in Havre-de-Grace; and every person who shall offer for sale in Baltimore city, or shall send therefrom, sold or unsold, to any other place, any barrel or half barrel of wheat flour, of rye flour, or of corn meal, which shall not

have been inspected, passed, branded, or otherwise distinctly marked as aforesaid, by a flour inspector as aforesaid, shall forfeit and pay for each and every offence, the sum of five dollars; provided, nevertheless, that wheat flour, rye flour and corn meal, passing through said city as freight, *in transitu* to another part of the United States, shall not be liable to such inspection. Proviso.

66. If any person other than an inspector of flour, duly authorized to act as such, shall erase, remove, deface or alter, or cause to be erased, removed, defaced or altered, the brand or other mark, or any material part of the brand or other mark, heretofore placed or which hereafter may be placed, by any inspector of flour, duly authorized to act, on any barrel or half barrel of wheat flour, or rye flour, or corn meal, he shall forfeit and pay, for each and every offence, the sum of five dollars. Ibid, s. 2. Penalty for erasing inspection marks.

67. The standard weight of every barrel of wheat flour, of rye flour and of corn meal, shall be one hundred and ninety-six pounds, over and above all tare, and of every half barrel, ninety-eight pounds, over and above all tare; and that the tare of every barrel and every half barrel containing wheat flour, rye flour or corn meal, offered for inspection, shall be truly and plainly marked thereon, and in case the tare shall be falsely marked on any barrel or half barrel, every person so marking the same, or knowingly permitting the same to be so marked, and every person knowing such false marking, who shall omit to make known the same to the inspector to whom the same may be offered for inspection, shall forfeit and pay for each and every offence, the sum of twenty dollars; and in every case, when the inspector to whom any barrel or half barrel shall be offered for inspection, shall suspect any false taring, he shall cause the contents thereof to be started, and the barrel or half barrel to be weighed, for the purpose of ascertaining the actual tare; and in every case where the inspector shall suspect that the actual contents of any barrel or half barrel, over and above all tare, is under the standard weight aforesaid, he shall unpack the same; and if Ibid, s. 3. Standard weight of flour. Penalty for marking false weight. Inspector may unpack.

the actual quantity therein contained, over and above all tare, shall prove to be of the standard weight, he shall carefully re-pack the same, without any charge or expense to the owner thereof; but if the same shall be found to be under the standard weight, the said inspector shall add such quantity of flour or meal, as the case may be, of the like character and quality, as may be necessary to make the contents equal to the said standard weight; and the persons or person by whom or on whose behalf the said barrel or half barrel shall have been offered for inspection, shall pay for the first pound so added, the sum of ten cents; for the second pound, the sum of fifteen cents; for the third pound, the sum of twenty cents, and for each additional pound, the sum of twenty-five cents, and at the same rates for any fraction of a pound, to be paid by the person or persons, by whom or in whose behalf the said barrel or half barrel shall have been offered for inspection.

Ibid, s. 4.
To whom forfeitures paid and how collected.

68. The forfeitures hereinbefore mentioned, shall be paid to the inspector-general of flour for Baltimore city; and the same shall be accounted for to the State, by said inspector-general; and in case of any refusal to pay the amount of all, any forfeitures may be recovered in the name of the State, together with legal costs before a justice of the peace.

GAUGER OF CASKS AND INSPECTOR OF DOMESTIC DISTILLED LIQUORS.

1862, c. 199.
How and when appointed.

69. The governor, by and with the advice and consent of the senate, shall biennially appoint four gaugers of casks and inspectors of domestic distilled liquors, who, before they proceed to act as such, shall apply to the clerk of the Court of Common Pleas of Baltimore city, and on paying each the sum of one hundred dollars to said clerk, shall be entitled to receive a license to act as gauger of casks and inspectors o liquors for the term of two years from the date thereof.

May be licensed

Cost of license.

P. L. L., art. 4, sec. 355.
Oath of office.

70. The person applying for such 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.

Ibid, sec. 256. No trader in liquors to be licensed.

71. No person engaged in vending or trading in or manufacturing casks or liquors, individually or as agent, clerk or employee of a trader, vendor or manufacturer of said articles, or either of them, shall be entitled to a license to act as gauger of casks and inspector of liquors.

Ibid, sec. 357. Liquors may be sold without being gauged.

72. Any person may sell, export or otherwise dispose of any foreign or domestic liquors in cask, without having the same gauged or inspected by a licensed inspector, but in cases of difference between the buyer and seller as to the quantity and quality, either party may call in an inspector and gauger, and his judgment shall bind the parties.

When gauger to decide.

Ibid, sec. 258. Gauger on request to gauge.

73. The gauger and inspector so licensed shall, upon request, gauge all rum, wine, molasses, or other liquid merchandise imported, brought or put in any butt, tun, pipe, hogshead, barrel or other cask in said city, and he shall mark and set down the true number of gallons which each cask or vessel will truly contain, and his own mark; all which casks, with their true marks and numbers and owners' names, shall be entered in a book or books to be kept for that purpose by the said gauger and inspector; for a copy of which entry the said gauger shall receive six cents, and for each cask so gauged and marked, the sum of eight cents.

To brand and keep record of brand.

Fee for copy of record.

Ibid, sec. 359. Mode of gauging.

74. The said gauger and inspector shall upon request gauge and inspect all domestic distilled liquors in the following manner, to wit:

Ibid, sec. 360. Marks, &c.

75. He shall mark all merchantable casks containing domestic distilled liquors with the letter B, with a marking iron on the bilge near the bung, to denote Baltimore inspection; 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 sap wood, 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 wood not less than twelve; and at least twelve on all double barrels, and hogsheads, and if any

cask containing such liquor shall be found deficient in any of these respects by said gauger and inspector, 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.

Ibid, sec. 361. Capacity, &c.

76. He shall procure and use a correct set of gauging instruments and Dycus' hydrometer, which he shall keep in good order; and as soon as he has ascertained the capacity of any cask, and the strength of the domestic distilled liquors contained therein, he shall distinctly mark with marking irons the capacity on the bilge near the bung, and prefix the initial letter of his surname; he shall likewise mark the number of gallons of proof spirit contained in said cask on the head thereof, and for this purpose the standard of proof spirits is hereby fixed at eighty-five degrees of the aforesaid hydrometer.

Ibid, sec. 362. Marks to be defaced when cask empty.

Penalty

77. All marks that shall be made by said gauger and inspector, determining the quantity of proof distilled liquors contained in any cask, shall be defaced thereon so soon as the same shall have been emptied, under a penalty of five dollars, to the use of the informer, to be paid by the owner or owners, or person having possession thereof.

Ibid, sec. 363. To give certificate of quantity.

78. The gauger and inspector, whenever it may be required by the seller or his agent, shall give a certificate specifying the true quantity of proof domestic distilled liquor contained in each cask gauged and inspected by him.

Ibid, sec. 364. To conform to Baltimsre standard.

Penalty for false gauging,

79. The said gauger and inspector, 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 and inspector, shall in its capacity be found lacking or exceeding one or more gallons in any barrel, or two or more gallons in any cask of a larger size, the gauger and inspector shall forfeit and pay two dollars for each gallon so lacking or exceeding the number of gallons marked by him on such cask.

Ibid, sec. 365. To use hydrometer used by U. S.

80. It shall be the duty of every licensed gauger and inspector, whenever the government of the United States shall determine to use a different hydrometer, to procure and use hydrometers of the description which shall then be used by the gaugers of the United States.

Ibid, sec. 366. Penalty for altering or forging marks.

81. If any person shall alter any mark or number marked or set down by any licensed gauger and inspector, thereby to deceive and defraud the purchaser of distilled spirits, wine, molasses, or other liquid merchandise so gauged, inspected and marked, or shall put any false mark or number on any such cask, or upon any certificate intending 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, sec. 367. Fees for gauging.

82. Every licensed inspector and gauger shall be entitled to demand and receive from the person at whose request he shall gauge and inspect any cask or casks, the following fees, to wit: for gauging casks containing domestic distilled liquors, if not exceeding forty gallons, six and a quarter cents per cask; for proving the same, three cents; for gauging casks containing such liquors, if of larger size, ten cents per cask; for proving the same, four cents; and for registering in a book to be kept for that purpose and giving a certificate therefrom of the quantity so gauged and inspected, for any person whenever required, one cent per cask; for gauging casks containing oil or molasses, and not exceeding forty gallons, ten cents per cask; if of larger size, fifteen cents per cask; and for gauging casks containing any other liquor, six and a quarter cents per cask, if not exceeding forty gallons, and ten cents for casks of larger size; and in case the true ullage only of a cask be taken, then five cents per cask; and for re-inspecting and marking casks containing domestic distilled liquors, four cents per cask.

Ibid, sec. 368. Not to gauge out of city.

83. No license shall authorize any gauger and inspector to act as such out of the limits of the city.

Ibid, sec. 369. Penalty for acting without license or out of city.

84. Any person not having a license who shall act as gauger and inspector of liquors, or who having a license shall act as such inspector without the limits of the 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 or 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.

GRAIN.

Ibid, sec. 370. Governor to appoint inspector general and four assistant inspectors of.

85. The governor, by and with the advice and consent of the senate, shall biennially appoint one inspector general and four assistant inspectors 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.

Ibid, sec 371. Oath of office.

86. Every inspector appointed under the provisions of the preceding section, before he proceeds to act as such, shall, under the penalty of five hundred dollars, take and subscribe the following oath, in addition to other oaths required by the Constitution and laws, to wit: "I, A. B., appointed inspector of grain in the city of Baltimore, do swear that I will diligently and carefully weigh and inspect all grain that I shall be called upon to weigh and inspect, and that I will fairly and impartially, without favor or partiality, hatred or bias, take out and remove and keep for delivery and exhibition a fair and just sample of all grain inspected by me, and that I will not receive during the time I hold the office of inspector general or inspector 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 inspector general or

inspector of grain, to the best of my skill and judgment, so help me God."

87. The inspector general, before he enters upon the discharge 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. 372. Bond of inspector general.

88. Each assistant inspector 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 inspector general.

Ibid, sec. 373. Bond of assistants.

89. In the event of a failure to perform any duties assigned the said inspectors 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. 374. Comptroller may order suit on bond.

90. All grain arriving in the city of Baltimore, must be reported to the grain inspector's office, whether by steamers, sail vessels of all descriptions, barges, canal boats; and it shall be the duty of the inspector-general of grain to have weighed all grain carried to the city for sale, except grain carried to the city in wagons, carts, or railroad cars; the inspection, but not the weighing of grain, to be optional with the owners thereof; it shall be the duty of the inspector-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 inspector-general shall be liable to a penalty of twenty dollars, to be recovered before any justice of the peace in Baltimore city, one-half of the fine to go to the informer, and the other half to the State, the suit to be brought in the name of the State; if any grain shall be brought by water to Baltimore for sale in bags, the said inspector 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.

1864, c. 189. Grain arriving to be reported to inspector and weighed by him.

Penalty against him for not weighing all grain within two hours after report.

P. L. L., art. 4, sec. 376. Office hours prescribed.

91. The inspector 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, either in person or by deputy, from eight o'clock, A. M., until five o'clock P. M., ready to receive all applications for inspection and measurement, and to hear and determine all controversies between the buyer and seller in relation to grain bought and 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 inspectors to attend to his duties in his absence.

Assistant inspector to act in absence of general inspector.

Ibid, sec. 377. How inspection to be made.

92. The inspector general, whenever application shall be made to him by any party interested in any grain to have the same inspected, weighed and measured, shall direct some one of the assistant inspectors to proceed at once and inspect the same, and take from the bulk, or several bulks, if there shall be more than one lot of grain, two fair average samples of each lot that may be designed to be offered for sale, and carry the same to the office of the inspector-general.

Ibid, sec. 378. Samples, how disposed of.

93. One of the said samples shall be delivered to the owner or his agent, and the other shall be retained in the office of the inspector-general, in such place and condition to prevent it as far as possible from improving or deteriorating in quality, until after the sale or delivery of the grain.

Ibid, sec. 379. Inspector general to decide all controversies between buyer and seller

94. If any controversy shall arise between any buyer and seller in relation to the quality of any grain, or in relation to a difference between any sample and the bulk of any grain sold in said city, either party may apply to the inspector general, who shall compare the sample retained by him with the bulk, and decide thereupon, whether they correspond, or whether the bulk is as good or better than the sample, and whether the purchaser or seller shall be released from the contract, and his decision shall be final.

Ibid, sec. 380. His decisions, how enforced.

95. If either buyer or seller shall refuse to comply with the terms of sale after such decision shall be made against him, the party aggrieved may recover in a suit at law double the

damages he may prove he has sustained by the said refusal; or in the event of a purchaser refusing or neglecting to comply with the terms of sale after a decision of the inspector general, the owner or his agent may either retain the grain and sue for damages, or may re-sell the same and then sue for the difference in price between the first and last sale, and for the delay and detention, and recover in either case double the amount of damage that shall be proven to have been sustained. Damages.

96. The inspectors shall also carefully weigh and determine the weight of all grain inspected by them, and for that purpose, shall procure at reasonable and proper cost, suitable weights and scales for that purpose. Ibid, sec. 381. All grain to be weighed.

97. No inspector shall weigh or inspect any grain after it has been once sold and delivered on its arrival 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 inspector, under the penalty of two dollars for every bushel so bought or sold; and upon conviction for the offence, he shall be dismissed from his office. Ibid, sec. 382. Not to be weighed or inspected after sale. Inspector not to deal in grain. Penalty.

98. If any inspector shall accept or receive, directly or indirectly, any gratuity or reward for any thing done by him in pursuance hereof, 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 inspector under the laws of this State. Ibid, sec. 383. Penalty for receiving gratuity

99. If any purchaser of grain shall fail or refuse to take or receive the same, and charge or allege that the bulk is not equal in quality to the sample by which he purchased, and it shall appear that six hours have passed since the sale took place, and no complaint has been made to the seller or his agent within that time, it shall be presumed, unless clearly Ibid, sec. 384. No contract to be rescinded after lapse of six hours.

proved to the contrary, that the bulk does correspond with the sample, and the purchaser shall be compelled to pay all damages and charges that may have arisen by reason of his delay or refusal to comply with his contract, to be assessed and determined by the said inspector general.

Ibid, sec. 385. Penalty for altering samples.

100. If any owner, or agent of any owner, of grain or any buyer of or dealer in grain, shall fraudulently alter or change any sample of any grain that may have been drawn and inspected by any inspector, with a view and for the purpose of improving or deteriorating its quality, he shall, upon conviction before any justice of the peace of this State, be fined not less than fifty nor more than one hundred dollars.

Ibid, sec. 385. Right of appeal given.

101. If any person so convicted shall feel aggrieved thereby, he may appeal within thirty days after the rendition of the judgment, upon giving good and sufficient bond, with sureties, to be approved by the justice, to prosecute his appeal with effect at the next term of the Baltimore City Court.

1862, c. 283, s. 1. Inspector to make returns to inspector general.

102. Each inspector shall make a daily return to the inspector-general, of the number of bushels of grain inspected and weighed by him, and the inspector-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 inspector-general shall charge and receive one-fourth cent per bushel for weighing and inspecting, 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 and inspecting, shall be paid by the purchaser to the inspector-general.

Charges for inspection.

Ibid, s. 2. Inspector general to make returns to comptroller.

103. The inspector-general shall make 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 inspected, 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, of a salary of not more than six hundred dollars per annum for each, to the treasurer, upon the warrant of the comptroller.

104. The treasurer, upon the warrant of the comptroller, shall allow and pay over to the inspector-general and the other inspectors, one-fourth cent per bushel upon all grain inspected and weighed by them; provided, the same shall not amount to more than two thousand dollars in the aggregate for any one year, for the inspector-general, and the sum of sixteen hundred dollars for each inspector—it being intended hereby not to pay said officers, in gross, more than two thousand dollars to the inspector-general, and sixteen hundred dollars to each assistant. Ibid, s. 3. Inspectors' fees. Proviso.

105. The said inspector 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 weight of said intermediate draft and the inspector's draft shall be taken as the weight of said sixty, or one hundred bushels, as the case may be; provided, that nothing herein contained shall require grain to be inspected, but that it shall be optional with the seller to have his grain inspected or not, under the law, as he may desire. Ibid. How grain weighed. Proviso.

106. In case of the refusal of the purchaser to accept grain after the decision of the inspector-general, as provided for in sections ninety-four and ninety-five of this article, (sections Ibid. Penalty for refusing to accept grain sold by sample.

379 and 380, Public Local Laws, article 4:) double the damage, with ten per centum added thereto, may be recovered before a justice of the peace, the Court of Common Pleas, or the Superior Court of Baltimore city, according as the amount sued for may correspond with their jurisdiction, that the said suits shall be heard and tried within five days after bringing said suit before a justice of the peace, and at the first term of the said courts, and in the Court of Appeals at the first term, if appeal be taken.

How recovered.

Ibid.
What grain to be inspected.
Standards of grain.

107. The term grain used in this article, shall be construed to mean wheat, rye, oats, corn, buckwheat and barley, and that the standard weight of wheat shall be sixty pounds to the bushel; rye and corn each, fifty-six pounds to the bushel; and oats, thirty 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.
Remedy of vendor of grain.

108. If any grain inspected and weighed or measured as aforesaid, shall be delivered to the purchaser thereof, and such purchaser shall thereupon refuse or neglect forthwith to pay for the same according to the terms of said sale, the person to whom the grain had belonged, or any agent of his, may sue out a writ of replevin, and seize the grain so sold, or any other property belonging to such purchaser, and after one day's notice, to be published in one of the newspapers in the city of Baltimore, may sell the same for cash at public sale, and receive the proceeds thereof, and if such sale does not produce the amount of the purchase money due on the original sale, with ten per centum added thereto, and all costs attending the seizure and sale, the original purchaser shall be liable for any balance, to be recovered as any other debt, and the price agreed to be paid for such grain, shall be a lien on the same into whosoever hand or possession the same may come, except in the hands of a *bona fide* purchaser, without

notice, and the commission merchant or other agent of the former owner or owners, may have such replevin in the name of such commission merchant, or other agent; and in case the sales should amount to more than the purchase money, costs and damages aforesaid, said surplus or balance of sales shall belong to said buyer.

Ibid. Pay of inspectors.

109. The amount to be so paid under the warrant of the comptroller by the treasurer, to the said inspector-general and inspectors, and for any other expenses which may accrue under this act, shall not exceed the amount of money to the credit of the grain inspection fund, as provided by law, and if there shall not be in the treasury to the credit of said grain inspection fund, a sufficient sum, after paying the expenses incurred under this act, to pay in full the said salaries of the said inspector-general and inspectors, then a ratable deduction shall be made between the said inspector-general and said inspectors.

P. L. L., art. 4, sec. 390. Penalty for failing to make returns.

110. If the inspector-general, or any assistant inspector, shall fail or refuse to make the report and pay over the money required of him 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 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 sections; and if the inspector-general shall fail to comply for two weeks after the time provided by this article, he shall be dismissed from office.

Ibid, sec. 391. Penalty for false returns.

111. If either the inspector-general, or any assistant inspector shall make a false return, either in the amount of inspections or money received and paid over, he shall be liable on his bond, and be ever afterwards incapable of holding any office under the inspection laws of this State.

Ibid, sec. 392. Bond to be sued on failure to return.

112. The comptroller shall, whenever the inspector-general shall fail to make the return to the treasurer hereinbefore 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. 393. Treasurer to keep account with grain fund; to invest balance to credit of fund.

113. The treasurer shall open an account with the grain inspection fund, and credit to said account or fund all moneys paid into the treasury by the inspector-general, and the surplus of fees that may hereafter be received from any inspector holding 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 for building a warehouse or warehouses in the city of Baltimore, for the accommodation of the grain trade of the State.

Ibid, sec. 394. Inspector general may appoint and dismiss assistants. May fix their compensation.

114. The inspector-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. 395. None but inspector to weigh or measure.

115. No person except those appointed under this article, shall inspect, weigh or measure any grain within the city of Baltimore, that may arrive for sale, 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 in and for the city of Baltimore.[1]

GUANO.

Ibid, sec. 398. Governor to appoint inspector of guano.

116. The governor, by and with the advice and consent of the senate, shall biennially appoint a practical chemist of integrity and good character, as inspector of guano in the city of Baltimore.

[1] Sections 396 and 397 of article 4 of the P. L. L., relating to selling and delivering grain by owner, and term of office of inspectors, are repealed by 1864, c. 189, and 1866, c. 149.

117. All persons importing or bringing any guano to said city for the purpose of being sold, landed or transhipped within the limits of said city, shall give notice to the said inspector, who shall thereupon proceed to inspect and analyze, weigh and mark the same.

Ibid, sec. 399. Notice to be given to inspector of all guano imported.

118. He shall analyze all guano so as to show the percentage of its ammonial and phosphate compound, and shall mark the quality thus ascertained upon each bag, barrel, cask, tierce, box, package or parcel, or upon any thing containing the guano, in accordance with the following scale: Commencing with the letter A, which shall indicate in Peruvian guano that the parcel so marked contains from fifteen to eighteen per cent. of ammonia; the letter B., indicating from twelve and a half to fifteen per cent.; the letter C, indicating from ten to twelve and a half per cent.; the letter D, indicating from seven to ten per cent.; and a similar table shall be arranged by the inspector to indicate the quantity of phosphates contained in Mexican and Patagonian guano; and upon other varieties of guano similar marks indicating its quality shall be used.

Ibid, sec. 400. Inspector to analyze, and how. To mark each bag or package.

119. If the guano be inspected in bulk, so that there is nothing to put a mark upon, the analysis shall be marked upon the bags, barrels, or other packages the guano may be placed in for sale, and the inspector shall give a certificate to the owner or his agent of the analysis, and quality and quantity of such guano, with the name of the vessel in which the same was imported.

Ibid, sec. 401. If in bulk, to mark bag or package in which put. To give certificate of analysis with name of vessel.

120. He shall mark upon each bag, barrel, keg or cask the place of inspection, and the weight of guano therein, making allowance for the weight of the bag, barrel, keg or cask.

Ibid, sec. 402. To mark on each bag, &c., place of inspection and weight

121. He shall keep an office in some convenient part of the city, and shall keep an analysis of every cargo or parcel of guano inspected by him, and enter the same in a book to be kept for that purpose, and, shall, by himself, or some other person having charge of his books, give to any person desir-

Ibid, sec. 403. To keep an office, and therein all analyses, and give copies.

ous of purchasing guano, a copy of the analysis of such cargo or parcel then in market for sale.

Ibid, sec. 404. To publish analyses.

122. He shall, for the information of the public, cause the tables prescribed in this article to be published, and shall also publish in the agricultural journals of the State and in one or two daily papers in Baltimore city, the analysis of samples of each and every cargo, with the name of the vessel in which the same was imported.

Ibid, sec. 405. Fees for inspection.

123. He shall receive from the importer or consignee the sum of thirty cents for each ton of guano he may inspect and analyze, weigh and mark.

Ibid, sec. 406. All guano must be inspected.

124. Every person who shall import or bring into the city of Baltimore any guano for the purpose of being sold, landed or transhipped within the said city, and shall refuse or neglect to have the same inspected and weighed by said inspector, shall forfeit and pay five dollars for each bag, barrel, box, tierce or other package he shall refuse or neglect to have inspected or weighed, to be recovered by indictment in the Criminal Court of Baltimore, one-half for the use of the informer and the other half for the use of the State.

Penalty.

Ibid, sec. 407. Penalty for neglect.

125. If any person shall refuse or neglect to have any guano inspected and weighed which is brought into the said city for any of the purposes aforesaid, in bulk, and not contained in bags, barrels or other packages, he shall forfeit and pay for each ton of guano so brought in twenty dollars, to be recovered by indictment in the Criminal Court of Baltimore, one-half for the use of the informer and the other half for the use of the State.

Ibid, sec. 408. Penalty for selling without inspection mark, and for forging inspector's mark.

126. No person shall sell any guano in said city in bags, casks, barrels, tierces, or other packages, unless the same be marked by the inspector as directed in this article, nor shall any person forge or counterfeit the mark of said inspector, or put guano into any bags, barrels, or other packages having the inspector's mark thereon, and which have been already used for that purpose; and any person violating the provisions of this section shall forfeit and pay fifty dollars for each

offence, to be recovered by indictment in the Criminal Court of Baltimore.

127. This law shall be construed liberally as a remedial law, so that all persons may be made to comply with its provisions. Ibid, sec. 409. How to be construed.

FERTILIZERS OTHER THAN GUANOS.

128. An inspector shall be appointed, whose duty it shall be, on oath, to inspect all fertilizers other than guanos, imported into and manufactured in the State of Maryland, and show by chemical analysis the per centage of valuable constituents in said fertilizers, and to mark the same upon all bags, packages, or on whatever may contain the same, used, sold, or offered for sale, with the receipt therein; and when the same shall be inspected in bulk, then the inspector shall give a certificate in writing to the owners or consignees of said fertilizers, or their agents, of the analysis of said fertilizers, so as to show its per centage of valuable constituents in phosphate of lime, in ammonia, which already may be formed in it, together with that capable of being formed from its nitrogenous compounds, copies of which shall be published in at least two of the daily papers in the city of Baltimore. 1865, c. 295, s. 1. Inspector of fertilizers other than guanos, his duties. Certificate. To be published.

129. It shall be the duty of said inspector to analyze and examine all of the artificial, manufactured or manipulated manures which may be manufactured or sold in the State of Maryland, so as to show the consumer the value of such manures, and publish the same once in every week in two of the daily papers of the city of Baltimore. Ibid, s. 2. Analysis of manures to be published.

130. The said inspector shall keep an office in the city of Baltimore, and in it a record of all the examinations of manures of all kinds made by him, which, at all reasonable times, shall be shown to those who may wish to examine the same. Ibid, s. 3. Office. Record.

131. Every person who shall import or bring into the city of Baltimore any artificial, manufactured or manipulated manure for the purpose of being sold, landed or transhipped Ibid, s. 4. Neglecting, &c. to have manure, in bags, &c. inspected.

within the said city, and shall refuse or neglect to have the same inspected and weighed by said inspector, shall forfeit and pay five dollars for each bag, barrel, box, tierce or other package he shall refuse or neglect to have inspected or weighed, to be recovered by indictment in the Criminal Court of Baltimore, one-half for the use of the informer, and the other half for the use of the State.

Penalty.

Ibid. s. 5. Neglecting, &c. to have manure in bulk inspected.

132. If any person shall refuse or neglect to have any artificial, manufactured or manipulated manure inspected and weighed which is brought into said city for any of the purposes aforesaid in bulk, and not contained in bags, barrels or other packages, he shall forfeit and pay for each ton of artificial, manufactured or manipulated manures so brought in, twenty dollars, to be recovered by indictment in the Criminal Court of Baltimore, one-half for the use of the informer, and the other half for the use of the State.

Penalty.

Ibid, s. 6. To be marked by inspector before sale.

133. No person shall sell any artificial, manufactured or manipulated manures in said city in bags, casks, barrels, tierces, or other packages, unless the same be marked by the inspector, as directed in this article, nor shall any person forge or counterfeit the mark of said inspector, or put artificial, manufactured or manipulated manures into any bags, barrels or other packages having the inspector's mark thereon and which have been already used for that purpose; and any person violating the provisions of this section shall forfeit and pay fifty dollars for each offence, to be recovered by indictment in the Criminal Court of Baltimore.

Penalty.

Ibid. s. 7. Fees.

134. If the fees of said inspector exceed twenty-five hundred dollars per annum, the excess shall be paid over to the State treasurer, in accordance with the provisions of the fifteenth article of the constitution.

Ibid, s. 8. Inspector to be a chemist.

Term of office.

By whom appointed.

Bond.

135. The said inspector shall be a practical analytical and agricultural chemist of good repute, and shall hold his office for two years, and until his successor is appointed; the said inspector shall be appointed by the Superintendent of Labor and Agriculture, and shall give his bond in the penal sum of

ten thousand dollars, with security or securities, to be approved by said superintendent, which bond shall be filed in the office of the clerk of the Court of Appeals.

HAY AND STRAW.

136. The governor, by and with the advice and consent of the senate, shall biennially appoint two inspectors of hay and straw for the city of Baltimore. P. L. L., art. 4, sec. 410. Governor to appoint two inspectors of.

137. Each of said inspectors shall give bond to the State of Maryland, in the sum of two thousand dollars, for the true and faithful performance of the duties of his office. Ibid, sec. 411. Each inspector to give bond.

138. All hay and straw brought to the city of Baltimore shall be weighed at the State hay scales, as provided in this article, and by one of the inspectors, at the rate of one hundred pounds to the hundred weight, making a reasonable allowance for the moisture thereof, as well as for the mud or other substances attached to the wagon, cart or sled containing the same; this section not to apply to hay or straw in bales brought to the city by water, railroad, wagons, carts or sleds. 1861, c. 35. Standard. To be weighed at State scales.

139. The said inspector shall be entitled to demand and receive for each and every load of hay and straw inspected by him, of whatever weight, one cent and one-half of a cent per hundred pounds; and for weighing hemp, cable, anchors, dye-woods, bark, etc., two cents per hundred pounds. 1865, c. 165. Inspector's fees.

140. The inspector of hay and straw shall sell the portable scales, and pay the proceeds of said scales to the treasurer of the State. P. L. L., art. 4, sec. 414. Inspector to sell portable scales.

141. The inspectors shall give a certificate of every load of hay or straw weighed, stating the gross and net weight of such straw or hay, and wagon, cart or sled; and if any seller of such hay and straw shall neglect or refuse to have the same weighed on the day of the delivery thereof, he shall forfeit and pay for every such neglect or refusal the sum of five dollars. Ibid, sec. 415. What certificate to contain.

Ibid, sec. 416. Neglect, &c. to have hay and straw weighed.

142. If any person bringing hay or straw to said city shall neglect to have the same weighed by the said inspectors, or shall be detected in having stones, rubbish, wood or any thing else concealed in his load, or shall in any manner change the condition of his cart, wagon, carriage or sled with a frudulent intention, he shall forfeit and pay for each and every such offence the sum of five dollars.

Penalty.

Ibid, sec. 417. Selling, &c., without inspection.

143. If any person, after having his hay or straw weighed and having obtained the inspector's certificate, specifying the quantity thereof, shall dispose of any part thereof, or in any manner diminish the same in quantity, thereby to defraud or deceive the purchaser thereof, he shall forfeit and pay for every such offence the sum of twenty dollars.

Penalty.

Ibid, sec. 418. Inspector's may re-weigh wagons free of charge.

144. The said inspectors may re-weigh carts, wagons, carriages or sleds as often as they may deem expedient, and if at any time either of them shall be required to do so by a purchaser of hay or straw, and it shall be found that his report of the weight of the cart, wagon, carriage or sled is correct, the person requiring the same shall pay twenty cents to said inspector; in other cases the re-weighing shall be free of charge.

If required to do so, entitled to pay.

Ibid, sec. 419. Inspectors may weigh other articles.

145. The said inspectors shall at all times when required weigh hemp cables, anchors, dye woods, bark, roots, etc.

1864, c. 384. Where scales to be placed.

146. One of the scales or apparatus for weighing, shall be placed in the western section of the city, and the other in the eastern, but the governor may upon petition change the location of either, whenever and as often as he may deem proper, at the expense of the State.[1]

[1] This act of 1864, c. 384, further recites, that it has become necessary for public convenience to remove the scales now placed in the western section of the city, in consequence of the great interruption of business and inconvenience caused by the accumulation of vehicles in the streets, and then enacts that the governor is authorized and requested to select and commission three discreet persons, two of them residents of Baltimore city, and one a resident of Baltimore county, whose duty it shall be to sell the lot of ground and premises situate at the intersection of Franklin street and Pennsylvania avenue, now occupied by the State's scales, and with the consent and approbation of the governor, to purchase a lot of sufficient size, near the suburbs, for the purpose of a hay market; on which they

147. In addition to the charge hereinbefore authorized for the use of the State hay scales, the inspector shall be entitled to demand and receive fifteen cents for each and every load of hay or straw, which shall remain half an hour on the premises after the weighing thereof, but shall be removed before night, and thirty cents for each and every load which shall be left on the premises until the next morning. 1864, c. 384. Additional pay of inspector.

148. The weighing apparatus shall be adjusted at least once in six months by the standard of weights for the city of Baltimore, the expense of which, together with all the expense for repairs, shall be paid by the inspectors. P. L. L., art. 4, sec. 421. To be adjusted monthly.

149. They shall severally account for, under oath, and pay over to the treasurer quarterly, all moneys received by them as inspectors, after retaining for their services two-thirds of all moneys received under the four hundred and thirteenth section, and one-fifth of all moneys received under the four hundred and twentieth section of this article. 1864, c 384. Inspectors to account to treasurer quarterly.

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shall cause to be erected by contract, a suitable office for the use of the inspector, to which shall be transferred the scales, now in use in the western section, or the commissioners may, in their discretion, sell the old scales, and purchase and erect new scales at the new location, and the lot shall be enclosed and paved with rubble stones, for the protection of the hay and straw and the public convenience; and that before proceeding to make sale of said lot of ground, the commissioners shall give notice thereof, by advertisement inserted at least twice a week; three successive weeks, in two daily newspapers of said city; the lot shall be sold to the highest bidder for cash, and on receipt of the purchase money, they or a majority of them, shall execute a deed to the purchaser, vesting in him the State's interest in the property, and they are authorized to appropriate the net proceeds of sale towards the purchase and fitting up of the new lot, together with such additional sum not exceeding ten thousand dollars, at the maximum as may be requisite; which sum of ten thousand dollars, or so much thereof as shall be necessary, is hereby appropriated for the purpose out of any money in the treasury not otherwise appropriated, and the comptroller shall issue his warrant to the treasurer therefor, on the requisition of the said commissioners or a majority of them, payable to their order; the governor may fill the vacancy caused by the death, resignation, neglect, or refusal to act of any commissioner, and the commissioners shall be allowed in their accounts to be rendered, with proper vouchers to the comptroller, all their legitimate and proper expenses, but no compensation for their personal services in the premises, but the said scales shall be located at such places inside the city limits as will be convenient to both the Reisterstown and Frederick roads.

1867, c. 381. Another inspector to be appointed. His duties, &c.

150. The governor shall appoint a proper person to act as inspector of hay and straw at the scales erected under the act of 1867, c. 381;[1] and his duties, in all respects, shall be such as those now by law required of the inspector of hay and straw at the western scales, and he shall have like rights, except so far as they are hereby changed; and such appointment shall be made in all respects in like manner and subject to like confirmation by the senate, as is now by law required in the appointment of inspectors of hay and straw in the city of Baltimore: and said scales shall be used for the same purposes as the scales now established in the western section of said

[1] By this act of 1867, c. 381, Anthony Johnson, of Howard county, Ross Winans, of Baltimore city, and Joseph Judick, of Baltimore city, are appointed commissioners, and as such are authorized and empowered to purchase or lease and fit up in a suitable manner, a convenient lot of ground for erecting scales for weighing hay and straw; and the scales and fixtures necessary for that purpose, which shall not be situate south of the Frederick turnpike, west of Mount street, north of Pratt street, and east of the junction of the Franklin and Frederick turnpike roads. And upon the purchase by said commissioners of the said lot, or lease of the same, and the sufficient conveyance of the title thereto, or the leasehold interest therein, to the State of Maryland, the said commissioners shall cause to be erected thereon suitable hay scales, and an office for the purposes aforesaid, and upon the purchase of the said lot, and the receipt by the said commissioners of a sufficient conveyance thereof as aforesaid, the comptroller shall issue his warrant to the treasurer of the State to pay over to the grantor or grantors of said land, on the certificate of said commissioners, or a majority of them, of said purchase and the conveyance of the same, such sum of money as said commissioners, or a majority of them, may have agreed to pay for said lot of ground, and also to pay over to said commissioners, or a majority of them, such sum or sums of money as they may by their certificate, from time to time, require for buying and placing and erecting said scales, and erecting an office for the accommodation of the inspector, while in the performance of his duties as such, and the fitting of said lot for the purposes hereby designed. But the whole of said amount of money for the purchase of the lot of land, and putting it in proper condition for the use designed by this act, and for the scales, and for the erection thereof, and for the said office, which is hereby appropriated, shall not exceed seven thousand dollars. And the commissioners are required to make their contracts so as not to exceed said amount. And if one or more of said commissioners shall refuse to act as such, or should die or be unable to act, the remaining one or two, as the case may be, shall fill the vacancy or vacancies as often as they occur, and a majority of them may do all acts required hereby, due notice being given to all. And upon the completion of said office, and the erection of said scales, the said commissioners, or a majority of them, shall certify said fact to the governor, who is required by this act to appoint a person as inspector, as provided in above section.

city are used for, and shall be subject to the same regulations. And the inspector hereby authorized to be appointed and the inspector of the western scales now in operation shall, from the time that first named inspector shall enter upon the duties of his office, severally account for under oath, and pay over to the treasurer, quarterly, all money received by them as inspectors, after receiving for their services three-fourths of all moneys received by them for weighing and inspecting hay and straw, and one-fifth of all money received by them for weighing hemp, cable, anchors, dye-woods, bark, roots, etc. Fees for weighing.

151. It shall be the duty of the inspector of hay and straw having charge of the eastern hay scales at Canton in the city of Baltimore, to weigh all cattle and hogs required by law to be weighed, which may be brought to said scales for that purpose, and the said inspector shall be entitled to demand and receive for the use of the State, for the first time of weighing any live stock, except sheep, required by law to be weighed, two cents for every hundred weight, and one cent per head for every sheep, and for every second and subsequent weighing, for cattle and hogs, two cents for every thousand weight, and sheep, one cent for every thousand weight, and all live stock not required to be weighed, the sum of six cents for every thousand weight.[1] 1867, c. 241, s. 3. Inspector's duties. Charges.

[1] By this act of 1867, c. 241, the sum of twenty-five hundred dollars is appropriated, or as much thereof as may be necessary for the rebuilding of the hay scales and the buildings connected therewith, owned by the State of Maryland, and situate in the eastern section of the city of Baltimore, near the intersection of O'Donnell street, with the western line of Baltimore county, and to alter and adapt said scales to the weighing of live stock, as well as hay and straw, and to erect such enclosures as may be necessary for the safe keeping of live stock: and Edwin Walters is appointed commissioner on behalf of the State to superintend the repairs and alterations, provided for in the preceding section, and the comptroller is hereby authorized and required to issue his warrant on the treasurer for such sum of money, to be paid to the said commissioner as he may in writing certify to be necessary for such purposes, not exceeding, however, the sum of twenty-five hundred dollars,—said commissioner to give bond with approved security to the State, to be taken and approved by the comptroller, in the sum of three thousand dollars, for the faithful performance of his duties, and the application of the funds which may come into his hands, to the purpose enunciated in this act, and the said commissioner shall be entitled to receive three per cent. on the amount of the moneys disbursed by him in accordance with this act.

Ibid, s. 4. Record of expenditures, &c.

152. He shall keep a full record of all weights as ascertained and determined by him, of what and for whom the same may be ascertained and determined, and all money by him received for weighing live stock, and all expenditures and disbursements, in books to be provided for him for that purpose, which books shall belong to the State, and shall at all times be subject to the inspection and order of the comptroller; and he shall at the expiration of every six months, or within five days thereafter, upon his oath, taken before a justice of the peace for said city, make a full statement of all receipts for weighing all live stock weighed by him, for the six months immediately preceding said statement, and from whom received, and all disbursements by him made to the comptroller; and if the balance in the hands of said inspector for weighing live stock for said six months, shall exceed the sum of two hundred dollars, he shall pay the excess into the treasury; but if there be no excess over and above two hundred dollars, after deducting all necessary expenses for receipts for weighing live stock, the said inspector shall retain the balance as compensation for his services for weighing such live stock.

Ibid, s. 5. May impound for charges.

153. He may upon failure or refusal of any agent or owner of live stock to pay for weighing the same, impound any number of live stock he may deem necessary, or cause such fees to be paid; provided, no injury be done to said stock by confining them as aforesaid, that they be delivered to the owner or agent upon payment of all just and proper charges.

Proviso.

Ibid, s. 6. Inspector neglecting to weigh, &c.

154. If the inspector shall neglect, or delay to weigh or cause to be weighed any live stock brought to said scales for the purpose of being weighed, for a time not exceeding twenty-four hours after he shall have been requested to weigh the same, he shall forfeit and pay to the owner of such live stock, or his agent, the sum of ten cents an hour upon each and every head hereof for so many hours as he shall omit or neglect to weigh the same over and above the term of twenty-four hours, Sundays excepted, to be recovered in an action of debt before a justice of the peace, with costs.

Penalty.

155. The said inspector of hay and straw shall execute a bond to the State, in addition to the bond hereinbefore provided 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 the said duties, which bond shall be filed with the comptroller of the treasury.

Ibid, s. 7. Inspector's bond.

156. The governor, by and with the advice and consent of the senate, is authorized to appoint an additional inspector of hay and straw for the eastern section of the city of Baltimore.[1]

1864, c. 339, s. 1. Appointment of additional inspector.

157. The said inspector, as aforesaid, by virtue of this act appointed, in the execution of his said office, shall conform to and be liable to all requirements, duties and provisions required of the existing inspectors, and enacted in reference thereto by any acts of assembly, now in force in relation to the same.

Ibid, s. 3. Inspector to conform to provisions required of other inspectors.

158. All fines and forfeitures imposed may be recovered with costs in the name of the State, before a justice of the peace, in the manner that small debts are recovered, one-half to the informer and the other half to the use of the State.

P. L. L., art. 4, sec. 423. Penalties, how recovered.

LEATHER.

159. Any free white citizen of the State of Maryland, on application to the clerk of the Court of Common Pleas in Baltimore, and on paying to said clerk the sum of one hundred and fifty dollars, shall be entitled to receive a license to act

Ibid, sec. 424. Inspector of, may be licensed.

[1] By this act of 1864, c. 339, the said inspector is authorized under the direction of the governor, to purchase a lot of ground in the eastern part of the city, in that portion thereof, east of Harris' creek, and south of Wilk street, and to erect thereon, and to keep in repair suitable hay scales or apparatus, for weighing hay brought to the city of Baltimore for sale; and the governor is authorized to draw on the treasurer, by the warrant of the comptroller, for a sum not exceeding two thousand dollars out of any money in the treasury not otherwise appropriated to carry into effect the provisions of this act.

as inspector of leather for the term of one year from the date hereof.

Ibid, sec. 425. Oath of office.

160. The person applying for such 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.

Ibid, sec. 426. No trader in to receive license.

161. No person engaged in the manufacturing, trading in or vending leather, individually or as a partner, or as agent, clerk or employee of a manufacturer or vendor of or trader in leather, shall be entitled to a license to act as inspector of leather.

Ibid, sec. 427, Any person may sell without inspection.

Inspector to decide disputes.

162. Any person may sell, export or otherwise dispose of any leather without having the same inspected, but in all cases of difference between the buyer and seller as to the quality of any leather, either party may call in an inspector, and his judgment, unless appealed from as allowed by this article, shall bind the parties.

Ibid, sec. 428. Inspector to provide scales, weights, &c.

To inspect upon request.

163. It shall be the duty of every inspector so licensed to provide himself with such and so many proper scales, weights and stamps as may be required in the performance of the duties of his office, and he shall upon request inspect any sole leather, rough harness or rough skirting leather, within the city of Baltimore, and the manner of inspection shall be as follows, viz: each side of leather shall be accurately weighed, and the weight thereof shall be branded or stamped thereon, in plain, strong and legible figures, expressing the number of pounds and quarter pounds, (if any,) and the quality of each side shall also be stamped or branded thereon in plain, strong and legible letters to the following criteria or distinctions,

Mode of inspection.

that is to say: if the side is of good quality of hide and of the best manufacture, there shall be stamped or branded upon it, the word best; if the side be of good quality of hide and of good manufacture, the word good; if the side be of good quality of hide but of bad manufacture, the word bad; and if the side is damaged, the word damaged; there shall also be

stamped or branded on each side inspected the surname of the inspector and the word Baltimore.

Ibid, sec. 429. Liability for false inspection.

164. Any such inspector shall refuse to inspect any leather which is unmerchantably damp; but in all cases in which any side or sides of leather so inspected shall fall short of the inspection weight marked thereon, equal to five per cent., the inspector shall be liable to the owner of the same in an action of debt before any justice of the peace for all such deficiency; and in all cases in which any side or sides of leather being merchantably dry, shall exceed the inspection weight marked thereon, equal to five per cent., such inspector shall be liable to the tanner of the same in a like action, recoverable in like manner, for all such excess.

Ibid, sec. 430. Penalty for delay to inspect.

165. If any licensed inspector shall omit or delay to inspect any parcel of leather he may be requested to inspect, for a time exceeding twenty-four hours after such request, he shall forfeit and pay to the owner of such parcel ten cents an hour upon each and every side of leather therein contained, for so many hours as he shall omit or delay to inspect the same, over and above the said term of twenty-four hours, to be recovered in action of debt with costs before a justice of the peace.

Ibid, sec. 431. Appointment of arbitrators by mayor and council. Their duty.

166. It shall be the duty of the mayor and city council of Baltimore, on or before the first day of April annually, to appoint three arbitrators, two of whom shall be tanners, and one of them a currier or dealer in leather, who, or a majority of them, shall decide upon the justice or injustice of any decision to be made by any licensed inspector, and the decision of such arbitrators, or a majority, shall be conclusive on the subject.

Ibid, sec. 432. Appeals to arbitrators, when to be made.

167. All appeals to the said arbitrators shall be made within three days after the decision of the inspector.

Ibid, sec. 433. Oath of arbitrators.

168. Every arbitrator, before he enters upon the duties of his office, shall take and subscribe the following oath before some person authorized to administer the same: "I do solemnly swear that I will faithfully, truly and impartially, according to the best of my judgment and ability, execute and perform the

duties of the office of an arbitrator of the inspections of sole leather and rough harness and rough skirting leather in the city of Baltimore;" which oath, when taken and subscribed shall be lodged in the office of the register of the said city, to be by him recorded.

Deposited in register's office.

Ibid, sec. 434. Pay of arbitrators, and by whom paid.

169. Each of said arbitrators shall, for every arbitration in which he shall act, receive the sum of one dollar, to be paid by the person or persons making the appeal in case the decision appealed from shall be affirmed, or in case of the reversal of such decision by the inspector making the same.

Ibid, sec. 435. Fees of inspectors.

170. Every licensed inspector shall be entited to demand and receive for his services, two cents for each hide inspected by him, payable by the party who shall employ him.

Ibid, sec. 436. Inspector to report annually to register.

171. Each licensed inspector shall report annually to the register of the city, the number of sides and quantities of the leather which he shall have inspected during the year immediately preceding such report, with the amount of fees received by him for the same period.

Ibid, sec. 437. Penalty for counterfeited stamps.

172. Any person who shall counterfeit or fraudulently alter any one of the marks, stamps, brands or impressions of any such inspection, on any side or sides of leather so inspected, shall be deemed guilty of a misdemeanor, and be punishable by fine not exceeding one hundred dollars, or by confinement in the jail of Baltimore city, not less than three nor more than six calendar months, at the discretion of the court.

Ibid, sec. 438. Inspector not to act out of city.

173. No license shall authorize any inspector of leather to act as such without the limits of the city.

Ibid, sec. 439. Penalty for acting without license or out of city.

174. Any person not having a license who shall act as inspector of leather, or who, having a license, shall act as such inspector without the limits of the 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 or indictment by the grand jury, and conviction in due couse of law; and one-third of the penalty shall be paid by the sheriff to the informer, and the residue shall be accounted for to the treasury as other fines; but nothing

herein contained shall be construed to forbid the manufacturer or actual bona fide owner of any side or sides of leather from marking or stamping thereon, or on the package containing the same, the quantity or quality thereof. Owner may stamp quantity or quality on city leather.

LIME.

175. Any free white citizen of the State of Maryland, on application to the clerk of the Court of Common Pleas in Baltimore city, and paying said clerk the sum of one hundred and fifty dollars, shall be entitled to receive a license to act as inspector of lime for the term of one year from the date thereof. Ibid, sec. 440. Inspectors of may be licensed Cost of license.

176. The person applying for such license shall, at the time of receiving the same, take and subscribe before the said clerk, an oath that he will honestly and faithfully discharge the duties of said office. Ibid, sec. 441. Oath of office.

177. No person engaged in the manufacturing, vending or trading in lime, individually or as a partner, or as agent, clerk or employee of a manufacturer, vendor or trader in lime, shall be entitled to a license to act as inspector of lime. Ibid, sec. 342. No person trading in lime to be licensed.

178. Any person may sell, export or otherwise dispose of lime without having the same measured and inspected by a licensed inspector, but in all cases of difference between the buyer and seller as to the quantity, quality or measurement, either party may call in an inspector, and his judgment shall bind the parties. Ibid, sec. 443. Any person may sell without license. Inspector to decide in cases of dispute.

179. The said inspector, upon request, shall measure and inspect any lime in said city, either in bulk or in casks; and if in bulk, he shall give the party at whose request the inspection is made, a certificate of the quantity thereof, and also of its quality; that is, whether it is first, second or third quality; and if in casks, he shall mark the same with a legible mark, designating the quality and the quantity of lime they severally contain. Ibid, sec. 444. Inspector to measure in bulk or cask; if in bulk to give certificate of quantity and quality; if in cask to mark cask.

180. The measure used by inspectors of lime shall be the Winchester bushel, containing twenty-one hundred and fifty cubic inches. Ibid, sec. 445. To be measured by Winchester bushel.

Ibid, sec. 446. Pay of inspectors.

181. Each inspector shall be entitled to three-fourths of a cent per bushel for all lime inspected and measured by him in bulk, and six cents for every barrel, and twelve cents for every hogshead inspected, measured and branded.

Ibid, sec. 447. Lime below standard to be condemned.

182. All lime which in the judgment of the inspector, is below the standard of third quality, shall be condemned, and shall be thus mentioned in the certificate of the inspector, or branded or marked on the cask by him.

Ibid, sec. 448. Penalty for deceit in loading or selling in cask; for selling part of load after obtaining certificate; for selling or exchanging certificate.

183. If any wagon driver, owner or agent, shall make use of any device in loading his wagon or other carriage, or in selling barrels, hogsheads or other casks, or shall, after obtaining a certificate, suffer any part of his load to be disposed of or diminished, and then sell or offer to sell the remainder for the quantity mentioned in the certificate, or shall exchange his certificate for any other of greater quantity or better quality, he shall forfeit and pay for every such offence ten dollars.

Ibid, sec. 449. nspector may annul certificate when satisfied of fraud.

184. When any load of lime which has been inspected, and for which a certificate has been given, shall have been delivered and discharged, and it shall appear to the buyer or receiver, or any other person, that some fraud or device has been used in the loading or unloading thereof not known to the inspector, he may complain to the inspector, who shall forthwith examine into the same, and if satisfied that his first certificate was not correct, shall revoke and annul the same, and issue a new one, stating the just quantity and quality; should it appear that fraud was intended, or any device used with an intention to deceive the inspector, the owner, driver or agent shall forfeit and pay ten dollars.

Ibid, sec. 450. Mayor to appoint board of appeal.

185. The mayor of the city of Baltimore shall annually appoint three persons, well skilled in the quality and quantity of lime to constitute a board of appeal, whose duty it shall be to decide upon all cases of appeal which shall be made to them from the decisions of lime inspectors, either by the lime burners, sellers or buyers, and their decision shall be final.

186. If the decision of the board of appeal be in opposition to the certificate of the inspector, the inspector shall pay all the expenses that may occur in consequence of the appeal; but if the decision of the inspector be confirmed, the person making the appeal shall pay the expense thereof. Ibid, sec. 451. Party failing on appeal to pay expenses.

187. Each person constituting the board of appeal, shall receive for his services, in each case in which he shall act, one dollar for each day's services. Ibid, sec. 452. Pay of members of board.

188. They shall, in the presence of the mayor of the city, before they enter upon the duties of their office, make oath that they will faithfully perform the duties of their office to the best of their skill and ability. Ibid, sec. 453. Oath of members of board.

189. If any lime burner, buyer or seller of lime, shall be dissatisfied with the decision of any lime inspector, he may appeal to the board of appeal, who shall decide the same as soon as practicable; and a majority of said board shall constitute a quorum to transact business. Ibid, sec. 454. Buyer or seller may appeal from inspector.

190. No license shall authorize any inspectors of lime to act as such without the limits of the city. Ibid, sec. 455. License not to authorize to act out of city.

191. Any person not having a license who shall act as inspector of lime, or who, having a license, shall act as such inspector without the limits of the 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 of Baltimore, on presentment or 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. Ibid, sec. 456. Penalty for inspecting without license or inspecting out of city.

192. All penalties imposed in this law, except that in the last preceding section, may be collected in the name of the State of Maryland as other fines, one-half to the informer, and the other to the use of the State. Ibid, sec. 457. Fines and penalties, how recovered.

LIVE STOCK.

Ibid, sec. 458. Governor to appoint weighmaster of.

193. The governor, by and with the advice and consent of the senate, shall biennially appoint a suitable and proper person to be weighmaster of live stock in the city of Baltimore.

Ibid, sec. 459. Bond of weighmaster.

194. The person so appointed shall execute a bond to the State of Maryland, with two securities, to be approved by the mayor or city council of Baltimore, in the penal sum of five thousand dollars, conditioned for the full performance of all acts and things required of him as weighmaster, and to pay all damages that may be sustained by reason of wilful omission, refusal or neglect to discharge the said duties; which bond shall be filed among the records of the Superior Court of Baltimore city, and may be sued by any person injured or damaged by such wilful omission, neglect or refusal.

Ibid, sec. 460. What stock to be weighed.

195. All beef cattle and hogs brought for slaughter within the corporate limits of the city of Baltimore, or within five miles of said limits, which have not been raised or grazed one year within said limits, or within five miles of the same, shall be weighed by said weighmaster before they shall be sold or slaughtered.

Ibid, sec. 461. Weighmaster to weigh all stock presented To give certificate of weight to owner.

196. The said weighmaster shall, upon any day in the week except Sunday, weigh all live stock that may be offered at the live stock scales for that purpose, whether required by the last preceding section to be weighed or not, and shall give a certificate under his hand, setting forth the actual gross weight of any number of cattle or hogs, or other live stock so weighed by him, to their owner or his agent, making such allowance in the nature of tare on account of any dirt, mud, filth, or other matter adhering to the same, as he may think just and proper.

Ibid, sec. 462. Charges for weighing.

197. He shall charge and collect for the use of the State for the first time of weighing any live stock, except sheep, required by this article to be weighed, two cents for every hundred weight, and one cent per head for every sheep; for every second and subsequent weighing, for cattle and hogs, two cents for every thousand weight, and sheep, one cent for

every thousand weight; and all live stock not required to be weighed, the sum of six cents for every thousand weight.

198. He shall keep a full record of all weights as contained and determined by him, of what and for whom the same may be so ascertained and determined, and of all moneys by him received as weighmaster, and of all expenditures and disbursements, in books to be provided by him for that purpose, which books shall belong to the State, and shall at all times be subject to the inspection and order of the comptroller.

Ibid, sec. 463. To keep record of all weighs; to keep accounts of receipts and expenses; books to belong to State.

199. He shall, within the first five days of every quarter, upon his oath, taken before a justice of the peace of said city, make a full statement of all receipts for weighing, and from whom received, and of all disbursements by him made to the comptroller, and shall pay over to said comptroller, all balances that may be in his hands.

1864, c. 328. Weighmaster to render quarterly account to comptroller.

200. He shall number the pens or yards under his care used for receiving live stock, and shall mark in conspicuous places on the fences or gates thereof, in legible figures, the number of cattle, hogs or sheep, the said pens or yards will respectively contain.

P. L. L., art. 4, sec. 465. To number pens; number of cattle.

201. He shall, when receiving any live stock for weighing or exposure for sale, put the same into pens or yards, the nearest in capacity to contain the respective droves of the different owners thereof, and shall in no case divide and put portions of the same drove into different pens or yards, unless such division be actually necessary for the accommodation of the same, or to effect a division of such droves among the different owners thereof.

Ibid, sec. 466. To put cattle in pens without separating droves.

202. He may from time to time, as experience may suggest, and as the public accommodation and convenience may seem to require, make changes and alterations in the arrangement of the pens, yards, alleys and appurtenances thereof, and may if he shall deem it necessary for the public accommodation, erect additional cattle scales; and may make such reasonable rules and regulations to be observed by the owners or other persons presenting live stock to be weighed, in the use of said

1864, c. 328. To make alterations in pens, yards, &c.

pens, yards, alleys, scales or appurtenances, as to him may seem expedient; provided, nevertheless, that no rules or regulations shall be made or be valid, which shall give any preference or priority to any owner or other person in the use of said pens, yards, alleys, scales or appurtenances, or in the order of weighing the stock, over any other owner or person whose stock shall previously have been brought in to be weighed, and shall have been duly reported as ready to be weighed; provided, however, that the designation of the pen or yard into which stock shall be put, shall not be considered as giving any preference or priority; and provided, also, that the live stock of any kind, actually belonging to the government of the United States, or brought in to be weighed for delivery to the said government under any then subsisting contract, shall always be entitled to be weighed in preference and priority to all other stock belonging to private parties, or which are presented to be weighed for delivery under private contract.

Proviso.

Proviso.

U. S. stock to have priority in weighing.

P. L. L., art. 4, sec. 468.

203. He may, upon failure of any agent or owner of live stock to pay for weighing the same, impound any number of such live stock he may deem necessary to pay or cause such fees to be paid; provided, no injury be done to said stock by confining them as aforesaid, and that they be delivered to the owner or his agent upon payment of all just and proper charges.

May impound for weighing fees.

Proviso.

1864, c. 328.

204. Whenever, in his judgment, it may be necessary for the public accommodation to employ any clerk or assistant weighmaster, in addition to the clerk and assistant weighmaster whom he is now authorized to appoint, he may, with the approbation of the comptroller, appoint an additional clerk or additional weighmaster, or both, permanently or temporarily, whose compensation shall be fixed by the said weighmaster, subject to the approval of the comptroller of the State; and the annual salary of the clerk, whom the said weighmaster is authorized to appoint, shall be at the rate of one thousand dollars per annum,

May appoint additional clerk, &c.

Salaries.

and the salary of the assistant weighmaster, whom the said weighmaster is authorized to appoint, shall be at the rate of seven hundred and fifty dollars per annum.

205. He shall receive an annual salary of two thousand dollars per annum; and all the salaries shall be payable monthly out of any moneys received by the weighmaster for the use of the State. 1864, c. 328. Salary of weighmaster, &c.

206. If any weighmaster shall omit or delay to weigh, or cause to be weighed, any live stock, for a time exceeding twenty-four hours after he shall have been requested to weigh the same, he shall forfeit and pay to the owner of such live stock, or his agent, the sum of ten cents an hour upon each and every head thereof for so many hours as he shall omit or delay to weigh the same over and above the term of twenty-four hours, Sundays excepted, to be recovered in an action of debt before a justice of the peace, with costs. P. L. L., art. 4, sec. 471. Penalty for delaying to weigh.

207. If any grazier, drover, or other person shall sell or barter any beef cattle or hogs brought for slaughter within the corporate limits of the city of Baltimore, or within five miles of said limits, which have not been raised or grazed one year within said limits, or within five miles of the same, and which have not been weighed by said weighmaster, upon proof and conviction thereof before any judge or justice of the peace, he shall forfeit and pay a sum of not less than one nor more than ten dollars for each and every head of cattle or hogs so sold or bartered, at the discretion of the judge or justice, and to be recovered by action in the name of the State before a justice of the peace or court having jurisdiction thereof, one-half to the informer, and the other half to the clerk of said court for the use of the State. Ibid, sec. 472. Penalty for selling without being weighed.

208. If any butcher or other person shall purchase any beef cattle or hogs, brought for sale within the corporate limits of said city, or within five miles thereof, which have not been weighed by said weighmaster, he shall be subject to Ibid, sec. 473. Penalty for buying without being weighed.

the penalties and forfeitures imposed by the last preceding section.

1864, c. 328. Police commissioners have authority over premises.

209. The police commissioners of Baltimore city shall have and exercise the like powers and authority over and within the premises composing State cattle scales, the pens, yards, alleys, scales and appurtenances, as if the said premises were really situate within the boundaries of Baltimore city.

1864, c. 328. Grounds may be enlarged. How purchases shall be made.

210. The weighmaster of live stock may enlarge the grounds now provided for the weighing live stock, and may for that purpose, purchase in the name and on behalf of the State, such additional extent of grounds as the public wants may, in his judgment, require; and may, if he deems it expedient, sell or exchange for the benefit of the State, such portions of the ground now belonging to the State, and purchase for said purpose; provided, that no such sale or purchase shall be valid or effectual, unless and until the same shall have been approved by the governor and comptroller, nor shall the purchase money, in case of such purchase, or any part thereof, be paid until the governor and comptroller shall be satisfied as to the sufficiency of the title or titles of the vendor or vendors, and shall sign a certificate to that effect, to be filed in the office of the comptroller; and in case of any such purchase, the purchase money therefor, shall be paid out of any money in the treasury not otherwise appropriated, upon the execution and delivery of a conveyance therefor; and in case of such sale the purchase money therefor shall be paid to the comptroller; and upon such payment the comptroller, on behalf of the State shall, in the name of the State, execute and deliver a deed therefor to the purchaser or purchasers thereof.

1864, c. 328. Proceedings in cases of tort, trespass, &c.

211. In case any tort, trespass, or other wrong shall be done by any person or persons whatever, to any of the property belonging to the State, and composing parcel of, or appertaining to said State cattle scales, it shall be the duty of the weighmaster to sue for the same in the name of the State, as plaintiff, in the Superior Court of Baltimore city, in the Court of Common Pleas or Baltimore City Court, or before any jus-

tice of the peace of Baltimore, as the case may be; and no plea shall be received on behalf of any defendant to the jurisdiction of said court, either on the ground that the locality of the tort, trespass, or other wrong was in Baltimore county, or that the residence of said defendant was in some part of the State, other than Baltimore city.

212. All assaults, riots, or other criminal acts which may be done or committed on the premises aforesaid, shall be cognizable by the Criminal Court of Baltimore, in the same manner as if the same had been done or committed within the limits of said city. 1864, c. 328. Jurisdiction of criminal court extended over premises.

LUMBER.

213. Any free white citizen of the State of Maryland, on application to the clerk of the Court of Common Pleas in Baltimore city, and on paying said clerk the sum of one hundred and fifty dollars, shall be entitled to receive a license to act as inspector of lumber for one year from the date thereof. P. L. L., art. 4, sec. 474. Inspector of lumber may be licensed. Charges for license.

214. The person applying for such 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. Ibid, sec. 475. Oath of office.

215. No person engaged in manufacturing, vending or trading in lumber, individually or as a partner, or as agent, clerk or employee of a manufacturer or trader in or vendor of lumber, shall be entitled to a license to act as inspector of lumber. Ibid, sec. 476. No dealer in lumber to receive license.

216. All lumber coming to the city of Baltimore shall be inspected by a licensed inspector of said city; provided the same has not already been inspected by a regularly appointed inspector for Port Deposit, Havre de Grace, Perryville, or its vicinity. Ibid, sec. 477. All lumber to be inspected unless before inspected. Proviso.

217. Lumber shall be inspected and sold in Baltimore by measurement only, and all lumber shall be measured by the rule of board measure, except boards of an inch and under, which shall be measured on the surface. Ibid, sec. 478. To be inspected and sold by measure.

Ibid, sec. 479. Contents to be marked on each piece.

218. The contents of each board, plank or scantling, or bundle of cypress or juniper shingles, shall be marked thereon, and if any person shall alter any mark made by an inspector with any intent to defraud or deceive any person or persons, he shall for every offence forfeit and pay the sum of one hundred dollars, to be recovered by indictment in the Criminal Court of Baltimore, if the offence be committed in Baltimore, or in the Circuit Court of the county where the offence may be committed, one-half to the informer and the other half to the use of the State.

Penalty for altering mark.

Ibid, sec. 480. Fees of inspectors.

219. The licensed inspectors shall be entitled to demand and receive as a compensation for inspecting all lumber, twenty-five cents for every thousand feet board measure, and twenty-five cents per thousand for all shingles, exclusive of all necessary expenses of labor, one-half to be paid by the buyer, the other by the seller.

Ibid, sec. 481. How disputes to be settled.

220. Whenever the buyer or seller of any lumber or timber shall feel himself aggrieved by the measurement of any inspector, the buyer shall appoint one of the licensed inspectors, and the seller another, and they two shall select a third person to act as umpire, who shall be well acquainted with the kind of timber or lumber to be re-surveyed, and not a licensed inspector, and the three persons so appointed shall re-measure and mark said lumber or timber, and the decision shall be final.

Arbitrators.

Ibid, sec. 482. Pay of arbitrators.

221. The compensation of said arbitrators shall not exceed fifty cents per thousand feet, to be paid by the person found by them to be in default.

Ibid, sec. 483. Penalty for selling without inspection.

222. If any person bringing to and selling lumber in said city shall sell any lumber without having the same inspected by a licensed inspector, unless the same has been previously inspected, as hereinbefore mentioned, he shall forfeit and pay a fine of five dollars per thousand feet, board measure—one-half to the informer, the other to the use of the State, to be recovered as other fines and forfeitures.

Ibid, sec. 484. Inspector not to act out of city.

223. No license shall authorize any inspector of lumber to act as such without the limits of the city.

224. Any person not having a license who shall act as inspector of lumber, or who, having a license, shall act as such inspector without the limits of the 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 or 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 treasurer as other fines. Ibid, sec. 485. Penalty for inspecting without license or out of city.

MANURE.

225. A cart load of manure shall contain forty cubic feet.[1] Ibid, sec. 489. Contents of load.

OYSTERS.

226. All oysters carried to the city of Baltimore for sale, shall be sold by the sealed half bushel, or sealed bushel and half measure, and each and every person offending against the provisions of this section, shall be subject to a fine of fifty dollars for each and every offence, to be recovered before a justice of the peace of the city of Baltimore, by action of debt in the name of the State of Maryland, one-half to the informer, and the other half to the use of the State. 1864, c. 368. How oysters shall be sold. Penalty.

TOBACCO.

227. The governor, by and with the advice of the senate, shall appoint, before the first Monday of February, at each regular session of the General Assembly, five tobacco inspectors, one for each State tobacco warehouse in the city of Baltimore, whose terms of office shall respectively continue until their successors shall qualify; provided, that the successors of the present governor, in appointing inspectors, as aforesaid, shall select four of them from the tobacco growing counties of the State; no two of whom shall be selected from the same county. 1864, c. 346, s. 1. Appointment of five inspectors. Proviso.

[1] 1862, c. 19, repealed sections 486, 487, 488, 490, 491, 492 and 493 of article 4 of Code P. L. L., relating to the Inspection and Measurement of Manure.

Ibid, s. 2. To take oath.

228. Each of said tobacco inspectors, before proceeding to act, shall take and subscribe before the clerk of the Superior Court of Baltimore city, an oath or affirmation that he will faithfully to the best of his ability, without fear, favor or partiality, discharge all the duties of tobacco inspector, and

Give bond.

shall also give bond to the State of Maryland, in the penalty of thirty thousand dollars, with at least two securities, to be executed in the presence of and attested by said clerk, and approved by the comptroller, conditioned for the faithful performance of all his duties as tobacco inspector, and lodge the same, with the approval of the comptroller endorsed thereon, with the clerk of said court, whose duty it shall be to record the same, and a copy thereof, under the seal of said court, shall in all suits on said bond be good and sufficient evidence thereof, and of its execution by all the parties thereto.

Ibid, s. 3. How damages recovered against inspector.

229. Any person or persons on filing a declaration, stating in general terms, his, her or their ground of action against any tobacco inspector as such, may require a writ or writs in the name of the State, as plaintiff, endorsed to the use of such person or persons, to be issued against any such tobacco inspector, and the sureties on his bond, accompanied with a copy or copies of such declaration, to be served with said writ or writs on the defendants, and may in such suit recover judgment for such damages as he, she or they may show him, or herself, or themselves, to have suffered by reason of any malfeasance, misfeasance, or neglect of duty on the part of such tobacco inspector, together with the costs of suit, and in any such suit, any of the proceedings may be amended as in other cases.

Ibid, s. 4. Where suit brought.

230. Any of the parties to said bonds may be sued thereon, in the counties where they severally reside.

1867, c. 368. Inspectors' duties.

231. Each of said tobacco inspectors, as soon as possible after qualifying, shall take charge of the warehouse to which he may be appointed, and of all the tobacco, books, furniture, implements, appurtenances and effects found therein, and

shall receipt to his predecessor therefor, and shall employ such clerks and laborers, provide and keep on hand such books, implements and materials as may be necessary for the economical and effective discharge of his duties as such inspector; the chief clerks of the respective warehouses shall receive each twelve hundred dollars per annum; the receiving and shipping clerks shall receive each nine hundred dollars per annum; the weighing clerk shall receive nine hundred dollars per annum; the screwmen two dollars and fifty cents per day, and the laborers of back gang two dollars per day; all of which shall be paid by the inspectors from the receipts into their respective offices; the inspectors shall at no time employ more laborers than are necessary for the effective performance of the work to be done, and in his quarterly returns to the comptroller of the State, each inspector shall state the average number of screwmen and laborers employed in his warehouse during said quarter, and amount of compensation paid to them, and the several clerks in his employment. Compensation.

232. Each tobacco inspector shall have charge and control of the wharf in front of the warehouse to which he may have been appointed, as far as is necessary to facilitate the landing of tobacco thereat, or the removal of tobacco therefrom, and any master or owner of any vessel in front of such warehouse, not having any tobacco on board, who shall refuse or neglect to remove his vessel, upon the request of such tobacco inspector, or his clerk, in order that a vessel having tobacco on board may land the same, or that a scow or vessel may receive tobacco therefrom, shall pay a fine of not less than five, nor more than twenty dollars, to be recovered before any justice of the peace of the city of Baltimore, for the use of tobacco fund. 1864, c. 346, s. 6. To have control of wharf in front of warehouse. Penalty.

233. Each of said tobacco inspectors and persons employed by him, as aforesaid, shall, unless prevented by sickness or unavoidable accident, occupy ten hours every day, except Sundays and holidays, in the actual and personal discharge of his particular duties under this act. Ibid, s. 7. Ten hours per day labor.

Ibid, s. 8.
When inspector may appoint substitute.

234. If any tobacco inspector shall be prevented, except by sickness or unavoidable accident, from attending at the warehouse to which he is appointed, he shall designate some competent and proper person to act as his substitute, who shall be compensated out of the salary of said tobacco inspector, and for whose acts the said inspector and his bond shall be liable, and his salary shall cease during the time he is so absent, provided such absence exceeds six days at any one time.

Proviso.

1837, c. 338.
Inspector to take charge of tobacco and liable for same.

235. All tobacco landed or delivered at any of the warehouses in the city of Baltimore for inspection, shall be taken charge of by the inspector appointed to said warehouse, who shall be responsible therefor to the person delivering the same; and if he refuses to take charge of any such tobacco, or to give his receipt therefor when required, he shall be liable to a penalty of one hundred dollars, to be recovered in any court of law in this State, without prejudice to the right of action upon his official bond as hereinbefore provided; provided, he shall not be liable as aforesaid, if his warehouse be full, and he shall have secured room for said tobacco so delivered in some other warehouse or elsewhere; and provided, further, that if any inspector shall refuse to receive tobacco sent to him from any of the other warehouses by the inspector or inspectors thereof, knowing his own warehouse to be capable of receiving the same, he shall be liable as mentioned in this section.

Provisos.

1864, c. 346, s. 10.
Each hogshead to be numbered, &c.

236. It shall be the duty of each tobacco inspector to cause each hogshead of tobacco landed or delivered at the warehouse to which he is appointed, to be numbered in succession as received, and to cause said number to be entered in a book kept for that purpose, together with the time said hogshead was received, the name of the vessel or other conveyance, if known to him, by which said hogshead was brought to the city of Baltimore, and of the owner or consignee of said tobacco, and the initials or other marks on said hogshead, identifying the same; and when said hogshead shall be removed

from said warehouse, he shall cause an entry to be made in some book kept for that purpose, of the time when the same was so removed, the name of the person to whom the same was delivered, and of the vessel or other conveyance by which the same was taken away.

1867, c. 368. Cooperage.

237. All tobacco delivered at any warehouse in such condition as to require cooperage, shall be properly taken care of by the inspector, who shall notify the agent of the owner of such tobacco that cooperage is required, and the said agent, if in his judgment the same shall be necessary, shall have the same coopered at the expense of the owner, charging therefor a sum not less than twenty-five cents, nor more than fifty cents for each hogshead thus coopered.

1867, c. 368. Speedy inspections.

238. It shall be the duty of each tobaqco inspector, unless prevented by sickness or unavoidable accident, (and in that event, he shall designate some competent person, sworn beforehand before some justice of the peace, in the city of Baltimore, to perform faithfully the duty of inspector,) to cause all tobacco in the warehouse to which he may have been appointed, to be inspected as speedily as practicable in regular order as numbered, without favor, affection or partiality to any one; and each violation of the provisions of this section shall subject the offender to a penalty of one hundred dollars, to be recovered in the Criminal Court of Baltimore city.

Penalty.

1864, c. 346, s. 13 Each hogshead to be weighed, &c.

239. It shall be the duty of each inspector to cause each hogshead of tobacco before it is uncased to be weighed, and the tobacco in each hogshead, and the cask itself, to be separately weighed in his presence, or that of his weighing clerk, in scales with weights of the proper standard, and the weight of each hogshead as first weighed, and the gross and net weight of the tobacco therein contained after inspection, to be entered in a proper book, with sufficient reference to its numbers and marks as previously recorded.

Ibid, s. 14. To be marked.

240. It shall be the duty of each inspector to cause to be marked with a marking-iron on the side of each hogshead of tobacco under his charge, the warehouse number and weight

of said hogshead, and the net weight of tobacco contained therein, and to cause the warehouse number of such hogshead to be marked with blacking on each head thereof.

1867, c. 368. Samples.

241. It shall be the duty of each inspector to cause all tobacco under his charge to be uncased and broken, and himself, or some competent person, appointed and sworn as aforesaid by him to draw samples thereof, and cause the same to be tied, fastened, labeled and marked as hereinafter provided.

1864, c. 346, s. 16. Maryland and Ohio tobacco.

242. Each hogshead of tobacco raised in Maryland or Ohio, shall be broken in five different places—the first break to be not more than nine inches from the floor, and one bundle shall be taken from each break of the average quality thereof, and the five bundles so taken shall be so drawn as to constitute a fair and just sample of the quality and condition of the tobacco in said hogshead.

1867, c. 368. Tobacco from other States.

243. Each hogshead of tobacco which may have been raised in any other State than Maryland or Ohio, shall be broken in three different places, and four bundles shall be taken from each break of the average quality thereof, and the twelve bundles so taken shall be so drawn as to constitute a fair and just sample of the quality and condition of the tobacco in such hogshead.

Samples, how disposed of.

244. One of the clerks of the said inspector shall then tie together said four or twelve bundles, as the case may be, by passing a strong tape through the head of each bundle, and confining thereon a strip of pasteboard, on which shall be written the warehouse, number of the hogshead represented by said sample, the number of the warehouse in which the same was inspected, the date of inspection, the name of owner of said tobacco, if known to him, or if said name be not known to him, the initials or other marks on said hogshead.

1864, c. 346, s. 19. Seal of warehouse.

245. If the inspector be of opinion that said tobacco is sound, clean, in good order and merchantable, he shall then cause the pasteboard and tape on said sample to be sealed with sealing wax and stamped with the seal of said ware-

house, and shall deliver said sample to the owner or his agent, with a certificate stating the date of the inspection, the warehouse mark and number of said hogshead, the weight thereof, and net weight of tobacco contained therein.

Ibid, s. 20. Weight of tobacco cut off.

246. If more than ten pounds of tobacco shall have been cut from any one hogshead inspected and passed as aforesaid, in consequence of said tobacco having been wet or otherwise injured, the inspector shall note on the label and the certificate, the weight of the tobacco which may have been so cut off.

Ibid, s. 21. When duplicate certificate to issue.

247. If the certificate provided for in the last two sections shall be lost, the inspector shall, on affidavit of the fact being given, made by the person to whom the same had been issued, cause a duplicate certificate marked as such, to be issued to the party entitled thereto.

1867, c. 368. Owner may return samples and certificates.

248. If the owner or his agent shall return the samples and certificates hereinbefore provided for, and desire to have new ones, the inspector shall untie said original samples, detach therefrom and cancel the label affixed thereto and draw new samples in the same way in which he is hereinbefore required to draw original ones, shall make record of such fact, and shall cause said new samples to be tied and marked, and shall also cause the word "redrawn" to be written on the label affixed thereto; or if any person who had said original samples shall make affidavit that he has lost them, the inspector shall draw new samples and mark the same, and make record thereof as herein provided, and shall charge for redrawing as above the sum of fifty cents; and in case of a redraw, it shall be the duty of the inspector to return the original sample to the owner or his agent, after writing in prominent letters across the label, the word "cancelled."

1864, c. 346, s. 23. Injured tobacco.

249. If any inspector shall find any tobacco which may be opened unmerchantable or out of order, he shall cause the same to be carefully cased up and weighed, and cause to be entered in a proper book, the reasons for which the same

may have been stayed, together with any other appropriate remarks.

Ibid, s. 24. Stayed tobaaco.

250. All tobacco thus stayed, unless the owner or his agent choose to remove the same for the purpose of re-conditioning it, shall, with all convenient dispatch, be shaken out, conditioned, packed, re-weighed and re-inspected as other tobacco, under the supervision of the inspector, but shall not be taken from the warehouse for any of said purposes, and shall then be entered upon the inspector's books, and samples and certificates thereof shall be furnished as are required in reference to other tobacco.

1867, c. 368. What owner to pay.

251. The owner or agent of each hogshead of stayed tobacco re-conditioned and packed in any State tobacco warehouse, shall pay in proportion to the amount of tobacco in each hogshead requiring re-conditioning from fifty cents to two dollars therefor; provided, however, that he shall have the privilege of removing the same elsewhere than to another of said warehouses for the purpose of having the same re-conditioned and packed.

Proviso.

1867, c. 368. Storage.

252. Every hogshead of tobacco which shall be sold by the grower or his agent, and remain in any warehouse under the charge of an inspector for a period of more than twelve months from the date of inspection shall be liable to a charge of twelve and a half cents per month storage for every month after the expiration of the said twelve months, to be paid before the said tobacco shall be removed,; provided, that nothing in this section shall extend to any tobacco in any of the warehouses at the time of the passage of this act.

Proviso.

1867, c. 368. Outage.

253. Every hogshead of tobacco shall be liable to the charge of two dollars outage, if weighing less than eleven hundred pounds, and twelve and a half cents additional for every hundred pounds over that weight, which shall be paid by the purchaser thereof to the inspector having charge of the same before it is removed, and shall be liable to no other charge not hereinbefore expressly provided for; provided, that

Proviso.

nothing in this section shall apply to tobacco now sold and awaiting shipment in the warehouses.

1867, c. 368. Scrap tobacco.

254. All scrap tobacco accruing at any of the warehouses shall be packed in hogsheads, a fair average sample of each hogshead taken, and the inspector having charge thereof shall sell the same by such samples at public or private sale in his discretion, after having advertised such sale for one week in the newspaper having the largest circulation in the city of Baltimore, and it shall be the duty of the said inspector to sell the said scraps four times in each year, and to render an account to the comptroller of the treasury of the number of hogsheads so sold, their weights, and the amount per hogshead realized, said account to be rendered as already required by law in regard to receipts and disbursements of said inspectors.

1864, c. 346, s. 29. Disposition of tobacco in warehouse four years.

255. All tobacco which shall have remained in any warehouse four years after inspection, the owner of which shall not be known, or the charges on which shall not have been paid, shall, unless the same be called for and the charges thereon paid, be sold by sample at public auction, after advertisement of said sale once a week for three months in the newspaper having the largest circulation in the city of Baltimore; and said advertisement shall state the warehouse number of each hogshead to be sold, the net weight of tobacco contained therein, the date of inspection, the person in whose name the same was inspected, and the charges to which the same is liable.[1]

Ibid, s. 30. Inspector to report to comptroller.

256. It shall be the duty of each tobacco inspector to report to the comptroller every sale made under the last section, in connection with the next account to be rendered thereafter, to mention in said report every name, mark or

[1] A former inspector of tobacco, by mistake, delivered to the holders of certain inspection notes, other hogsheads of tobacco than those mentioned in such notes. The hogsheads, corresponding with the notes, were, by that inspector, delivered over to his successor, and on the successor's advertising them for sale, they were demanded by the former inspector, and he then brought replevin; held, that he was not entitled to recover. *Stevenson* v. *Ridgely*, 3 H. & J., 281.

initial, which will facilitate the identification of each hogshead, together with the net amount for which the same was sold and the warehouse charges to which it was liable.

Ibid, s. 31. Owner to be refunded.

257. If any person shall, within one year from the date of any sale referred to in the last two preceding sections, satisfy the comptroller that he is rightfully entitled to the proceeds of any such sale, the comptroller shall draw his warrant on the treasurer in favor of such person for the principal sum which shall have been received and paid into the treasury therefor.

Ibid, s. 32. How tobacco to be removed in case of accumulation.

258. When so large an amount of tobacco accumulates in any one warehouse as to delay or interfere with inspections, the inspector in charge of said warehouse shall remove to some other proper and safe place so much of said inspected tobacco as shall be necessary to give room for that which is uninspected, the necessary cost of such removal to be charged and accounted for as other expenses.

Ibid, s. 33. Tobacco owned by inspectors, &c.

259. No inspector or other person appointed or employed in either of the tobacco warehouses in the city of Baltimore, shall allow any tobacco belonging to himself, or in which he is interested, to be taken for inspection to the warehouse to which he is appointed, or in which he is employed, under a penalty of twenty dollars for each offence; but tobacco raised by any one so appointed or employed, may be inspected as other tobacco at any other warehouse.

Penalty.

Ibid, s. 34. Not to be engaged in purchase of tobacco.

260. No inspector, during his continuance in office, and no other person employed in either of the warehouses of the city of Baltimore, during the time of his employment, shall be engaged or interested, directly or indirectly, in the purchase or sale of any tobacco other than such as he may himself have raised nor attempt to induce or influence the owner of any tobacco to consign the same to any particular agent or agents, or to send the same for inspection to one warehouse rather than another, under a penalty of dismissal from office or service, and a fine of one hundred dollars for each offence.

Penalty.

261. It shall be the duty of the several inspectors to prevent any owner or purchaser of tobacco, or the agent of either, and any other person whatsoever, except persons appointed for and employed in the particular warehouse in which the inspection may be made, from interfering with or assisting at the inspection, weighing or sampling of tobacco, or tying up or arranging, or sealing the bundles constituting the samples, and any inspector who shall violate any provision of this section, or knowingly permit it to be violated, shall be dismissed from office, and fined one hundred dollars for each offence. Ibid. s. 35. To allow no interference in inspecting, &c. tobacco. Penalty.

262. It shall be the duty of the several inspectors to cause printed notices, containing the provisions of the last preceding section, to be posted in one or more conspicuous places in each tobacco warehouse in the city of Baltimore; and if any person shall attempt to violate any of said provisions, the inspector shall direct the attention of such person to one of said notices; and if he shall thereafter violate said provisions, or either of them, the person so offending shall be liable to a fine of one hundred dollars for each offence. Ibid. s. 36. Printed notices to be set up. Penalty.

263. If any inspector shall accept or receive, directly or indirectly, any gratuity or reward other than his salary, for anything done by him in pursuance of this act, he shall be dismissed from office, and be forever thereafter disqualified from holding any office under this article, or any supplement to or amendment thereof, and shall, moreover, be liable to a fine of five hundred dollars for each offence. Ibid, s. 37. Inspector receiving gratuity. Penalty.

264. If any person other than an inspector employed or engaged in any tobacco warehouse, shall accept or receive, directly or indirectly, any gratuity or reward other than his regular pay or per diem, for anything done in connection with his said employment, or the subject matter thereof, he shall, on being thereof convicted, be liable to a fine of three hundred dollars, or to six months' imprisonment, in the discretion of the court. Ibid, s. 38. Penalty against employee.

Ibid, s. 39. Offering bribe to inspector.

265. If any person shall offer a bribe to any inspector, or any other person engaged or employed in any one of the said tobacco warehouses, as an inducement to show partiality or favoritism to such person, or otherwise to violate any provision of the Code in reference to the inspection of tobacco, he shall, on being thereof convicted, be sentenced to pay a fine of three hundred dollars, which shall go to the credit of the tobacco fund.

Penalty.

Ibid, s. 40. Erasing or altering marks.

266. If any person shall erase, alter or add to any word, letter, mark, number or figure placed in pursuance of this article, by any inspector, or any one in the employment of any inspector, on any hogshead, or written in pursuance of this article by any inspector, or any one in the employment of any inspector, on the label of any sample, or shall fraudulently take any tobacco from any sample, or substitute other tobacco for any in such sample, or any part thereof, or shall counterfeit any inspector's certificate or seal, he shall, on conviction thereof, forfeit three hundred dollars, to go to the credit of the tobacco fund, and be otherwise punished according to law.

Penalty.

Ibid, s. 41. Tobacco carried out of State must be inspected.

267. After the passage of this act, it shall not be lawful to carry out of this State, in hogsheads, any tobacco raised in this State, except in hogsheads, which shall have been inspected, passed and marked, agreeably to the provisions of this act, unless such tobacco shall have been inspected and passed before this act goes into operation; and any person violating the provisions of this section, shall forfeit and pay the sum of three hundred dollars, which may be recovered in any court of law of this State, and which shall go to the credit of the tobacco fund.

Penalty.

Ibid, s. 42. Dimensions of casks.

268. Tobacco raised in Maryland shall not be packed in casks exceeding fifty-two inches in the length of the staves, and eighty-four inches in the whole diameter within the staves across the head and bilge, and if any such tobacco shall be packed in a larger hogshead, the inspector having charge of the warehouse in which the same may be, shall notify the

owner or his agent thereof, and refuse to inspect and pass the same, until packed in a hogshead of proper dimensions.

269. Each of said inspectors shall, every three months, counting from the date of his appointment, furnish to the comptroller a faithful, accurate and detailed account of all the receipts and disbursements of his office, which account shall be verified by the following affidavit, to be made and subscribed by said inspector and his chief clerk, before some justice of the peace of the city of Baltimore, viz: "State of Maryland, city of Baltimore, to wit: I, the subscriber, a justice of the peace of the State of Maryland, in and for the city of Baltimore, hereby certify that on this ——— day of ———, 18—, A. B., a tobacco inspector, personally appeared before me, and made and subscribed the following oath or affirmation: I, A. B., tobacco inspector, do solemnly swear (or affirm) on the Holy Evangely of Almighty God, that the above account is just and true as stated; that I have charged myself therein with all the moneys that I have received, or which to my knowledge have been paid by any one other than myself, to any one employed or engaged in any warehouse of which I have had charge as inspector, for any of the duties or emoluments thereof, or for anything done in connection therewith, for the period embraced in said account; that I have claimed credit therein for no moneys which I have not actually and in good faith paid, and that I have not received or agreed to receive, and do not expect, and will not accept any portion of, or any commission on, or any gratuity for any moneys for which I have therein claimed credit; that I have without favor, affection or partiality to any one, performed the duties of said office as economically as was compatible with the efficient discharge thereof; and at the same time also appeared before me, C. D., chief clerk of the said A. B., and on the Holy Evangely of Almighty God, made oath as follows, viz: I, C. D., chief clerk of A. B., tobacco inspector, have carefully read the above oath made by him, and swear on the Holy Evangely

Ibid, s. 43. Detailed statements to be furnished comptroller.

of Almighty God, that I believe the same to be true in letter and spirit."

Signed:—J. P.,
A. B.,
C. D.

Ibid, s. 44. Surplus receipts.

270. The said inspector, at the time of presenting the said account, shall pay to the comptroller the excess of all receipts of his office over the disbursements thereof, and all payments so made, shall immediately be by the comptroller paid to the treasurer, and by the latter credited to the tobacco fund.

Ibid, s. 45. Inspector's salaries.

271. After the comptroller shall have examined and approved said account, the treasurer shall, on the warrant of the comptroller, pay to the said inspector out of the tobacco fund, his quarterly salary, at the rate of twenty-five hundred dollars per annum.

Ibid, s. 46. Books open to inspection.

272. The books of each warehouse shall be open to the inspection of any party who may have at the time, or shall have had previously any tobacco in said warehouse, and extracts from said books, certified to by the chief clerk of any such warehouse, may be taken by said party if he so desire.

Ibid, s. 47. Proceedings to recover fines and forfeitures.

273. Any of the fines, penalties and forfeitures imposed upon tobacco inspectors, or their employees, or upon any other person for violating the law for inspection of tobacco, may be recovered by action of debt, to be instituted within one year after the commission of the offence charged in the name of the State, in any of the courts of the city of Baltimore, having jurisdiction of the amount, without reference to the residence of the defendant, or at the option of the plaintiff, in any county where the defendant shall reside, and the clerk of any of the said courts shall direct such process to the sheriff of said city or county, and the return of said process by said sheriff shall avail for all purposes as if it were the return of the sheriff of the city or county in which suit may have been instituted; nothing, however, in this section is to be construed as ousting the criminal jurisdiction of the proper courts in the premises.

274. All money now in the hands of the treasurer, heretofore received from any one acting as tobacco inspector, and all received by him in pursuance of this article, and all fines, penalties and forfeitures under this article, not otherwise provided for, shall constitute a fund to be called the tobacco fund. Ibid, s. 48. Tobacco fund.

275. Where no other appropriation is made of any fine, penalty or forfeiture, referred to in the last preceding section, one-half thereof shall go to the informer, and the other half to the tobacco fund; and the interest of the informer therein shall not disqualify him as a witness in any action, civil or criminal. Ibid, s. 49. Appropriation of fines.

276. The comptroller shall furnish a bound copy of this act to each inspector appointed in pursuance thereof. Ibid, s. 50. Act to be furnished inspector.

277. It shall be the duty of each inspector to publish once in two months in some newspaper having the largest circulation in the city of Baltimore, an accurate and detailed statement of the number of hogsheads of tobacco he may have in his warehouse and stored out, if he have any, when inspected, and their average weight; he shall also have handbills posted in and about his warehouse directing public attention to said statement. 1867, c. 368. Statements to be published.

278. It shall be the duty of each inspector to have his warehouse thoroughly cleaned out at least four times a year, and he shall certify to the comptroller quarterly that he has complied with the provisions of this section. 1837, c. 368. Warehouses to be cleaned.

279. It shall be the duty of the Superintendent of Labor and Agriculture of this State, to cause a room in tobacco warehouse number five to be suitably furnished, which shall be set apart for the sales at auction, as hereinafter provided, of all tobacco which, after inspection, the owners or their agents may desire and direct to be so offered, and that it shall be the duty of the said Superintendent of Labor and Agriculture to cause the said auction room to be fitted up, so as to provide safe and suitable places for keeping the samples 1868, c. 453. Room for sales at auction.

of all tobacco which the owners thereof, or their agents, may desire to have in such depository.[1]

1868, c. 458. Auctioneers.

280. The governor, as soon as the said auction room shall be fitted up and ready for use, shall appoint two persons who shall act as auctioneers, one at least of whom shall be from the tobacco growing counties of the State, who shall continue in office until the time next thereafter fixed for the appointment of all civil officers of this State, and until their successors are appointed and qualified, at which time and every two years thereafter, he shall appoint two auctioneers, as all other civil officers are appointed, who shall perform the duties prescribed in the succeeding section.

1868, c. 458. Auctioneer's bond.

281. The persons appointed as autioneers, according to the provisions of the preceding section, before they enter upon the discharge of their duties, shall give bond to the State in the penalty of ten thousand dollars each, conditioned for the faithful discharge of their duties as herein prescribed, to be approved by the governor of the State, and recorded in the office of the clerk of the Superior Court of Baltimore city, and a certified copy of such bond shall be evidence in any court of this State.

1868, c. 458. Duty of auctioneers.

282. It shall be the duty of said auctioneers, or one or both of them, to attend at the auction room aforesaid on every Monday, Wednesday and Friday, from the hours of ten o'clock, A. M., to three o'clock, P. M., and offer at public sale any and all tobacco which the owners thereof or their agents shall request them to offer, and to sell the same to the highest bidder, the owner or agent of such owner being authorized to make one bid for the same; and when the highest bidder

[1] This act of 1868, c. 458, further enacts that the treasurer of the State, upon the warrant of the comptroller, is authorized and directed to pay to the order of the Superintendent of Labor and Agriculture, out of the tobacco fund, or so much thereof as may be necessary, the sum of five thousand dollars, to carry into effect the provisions of this act, and for the necessary repairs of tobacco warehouses, Nos. two and three.

shall be other than said owner or his agent it shall be entered as sold to such bidder, and the sale shall be given by said auctioneer making the sale to the owner or his agent for the same at the rates so returned by said autioneer; and it shall be the duty of said auctioneers to provide suitable books in which to enter said sales, specifying the number of each hogshead and the name of the owner and the purchaser, and that one of said auctioneers shall act as a clerk to make the said entries, and that the said auctioneers shall receive as a full compensation for their services the sum of twenty-five cents for each hogshead of tobacco sold by them, to be paid by the owner thereof; and that said auctioneers, with the approval of the inspectors, shall make such regulations and rules for the purpose of carrying out the provisions of this act in relation to such sales as they may deem necessary, which shall not be inconsistent with the provisions of this act.

Compensation.

Rules and regulations.

283. The several inspectors of tobacco in the city of Baltimore, are hereby authorized and directed to re-pay out of the moneys received by them, or which may be received, for storage and outage on tobacco, all sums of money which have been paid to them, respectively, or to their predecessors, directly or indirectly, for outage on tobacco, charged to the owner or his agent, and paid for re-inspection, over and above the legal charge of fifty cents per hogshead for re-drawing; also, all sums so paid since the tenth day of March, eighteen hundred and sixty-four, for storage on tobacco in their respective warehouses, before the same was sold by the grower or other person in whose name the same may have been inspected, or by his, her or their agents.

1868, c. 128, s. 1. Re-payments.

284. Every hogshead of tobacco which has been sold, or may hereafter be sold, at the tobacco warehouse, by the grower or person in whose name the same may be inspected, or his, her or their agent or commission merchant or assignee, shall from the expiration of three months after said sale, be chargeable with storage, at the rate of twenty cents per month for the time it shall remain in the warehouse or

Ibid, s. 2. Storage.

elsewhere, under the charge of an inspector, to be paid by the buyer before the same shall be removed.[1]

TOBACCO MANIFESTS, &C.

P. G. L., art. 37, sec. 56. Manifests, &c. evidence.

285. Copies or transcripts of manifests or other entries from the books of inspectors of tobacco, certified under the hand and seal of the inspector and verified by his affidavit to be true and accurate copies from the original in his possession, and to contain the entire entries or subject matters in

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[1] This act also repeals 1867, c. 148, entitled an act for the re-payment out of the storage and outage on tobacco, of moneys heretofore demanded and received by the inspectors of tobacco in violation of the acts of 1864, c. 346, and 1865, c. 194, (sections 227 to 278 of this article.)

In the case of *Crain and Stephens, assignees of Bowie, a bankrupt*, v. *Mercer*, State tobacco inspector of warehouse No. 2, a *mandamus* was granted by Superior Court of Baltimore city, under act of 1868, c. 128, to compel defendant to re-pay plaintiffs a sum of money for storage of tobacco, improperly collected from the bankrupt, Bowie, since March 10, 1864. In his opinion Dobbin, A. J., says:

The grounds on which it is contended the writ of mandamus is not applicable are: that the act to be done by the inspector is not a *ministerial*, but a *judicial* act; and that the plaintiffs have ample remedy for the grievance complained of, without resorting to the writ of mandamus. A law requiring the tobacco inspector to pay A. B. so much money on his receipting in full for the same, requires for its execution that the inspector shall determine upon the identity of A. B. when he presents himself, and also upon the sufficiency of the receipt he may be willing to sign for the payment. The tobacco inspector, by the inspection of the records in his office, ascertains the amount paid, when paid, and for what account paid—leaving only the fact of the claimant being the grower of the tobacco, or the agent of the grower, to be proved outside of the records of his office. The determination of this question is so nearly akin to the determination of the question of identity, that I cannot hold it to convert the duty in which it is involved from a ministerial into a judicial one.

The existence of a remedy which will cause a court to refuse the writ of mandamus, must be a remedy of the same character and to the same extent with the one sought to be compelled by mandamus. Now, the only remedy other than the one to be afforded to the tobacco grower by the enforcement of act of 1868, c. 128, is a suit on the inspection bond, a judgment in which would be a personal judgment against the inspector and his securities. But the act in question gives the claimant of storage wrongfully paid, a right to be paid out of a particular fund, and may be considered as a specific pledge of that fund for his re-payment. There is no mode by which the claimant can realize the benefits conferred on him by this act, except by the enforcement of the act itself; and there is no mode of enforcing it against a recusant inspector but by means of the writ of mandamus.

reference to which such transcripts are required, shall be evidence.

COUNTERFEITING, FORGING, &C., TOBACCO MANIFESTS, &C.

P. G. L., art. 30, sec. 33. Counterfeiting manifest, &c. of tobacco inspector. Altering note, &c. Offering forged note, &c.

286. If any person shall forge or counterfeit any manifest or note of any inspector of tobacco, or alter the quantity or quality of tobacco expressed in such manifest or note, or shall offer, or cause to be offered in payment, any such forged, counterfeited, or altered manifest or note, knowing the same to be forged, counterfeited or altered, and shall be thereof convicted, he shall be fined in any sum not exceeding three hundred dollars, or sentenced to the penitentiary for any term not less than eighteen months nor more than seven years, or both, in the discretion of the court.

Ibid, sec. 34. Exporting tobacco with forged mark. Demanding tobacco on forged note or manifest.

287. If any person shall export, or cause to be exported, any hogshead of tobacco marked with a forged or counterfeited mark, or demand tobacco of any inspector upon any forged, counterfeited, or altered manifest or note, knowing such manifest or note, or such mark, to be forged, counterfeited or altered, he shall be sentenced to the penitentiary not exceeding seven years, nor less than eighteen months, or be fined not exceeding three hundred dollars, or both of them, in the discretion of the court. And if any person shall put or pack any tobacco into any hogshead marked by any inspector, in lieu of tobacco inspected, or shall draw or take out any stave, plank or heading board of any hogshead of tobacco, after it shall be delivered out from any public warehouse, unless it be for the purpose of examining the quality of tobacco by a person intending to purchase the same, upon conviction thereof, he shall be fined a sum not exceeding one hundred dollars—and in all such cases, the testimony of the inspector may be admitted as evidence.

Ibid, sec. 35. Inspectors to brand hogsheads of tobacco.

288. The inspectors of tobacco in this State shall brand with a hob-iron on every hogshead of tobacco inspected by them, the name of the State wherein the tobacco was raised; and if any person shall rub out or deface any such brand on

Penalty for changing brand or branding falsely.

any hogshead of tobacco, with a view of changing the same, or shall falsely mark or brand any hogshead of tobacco contrary to the provisions of this section, upon conviction thereof, he shall suffer a confinement in the penitentiary for not less than six months nor more than two years.

Ibid, sec. 36. Branding hogshead to evade tobacco laws, how punished.

289. Any person branding any hogshead of tobacco with the word Maryland on the bilge, or any other part of a hogshead with intent to evade the provisions of the laws relating to the inspection of tobacco, shall be deemed guilty of felony, and upon conviction thereof, shall undergo a confinement in the penitentiary for not less than two nor more than four years.

WOOD.

1862, c. 116, s. 2. Biennial appointment of inspectors and corders of wood.

290. The governor, by and with the advice and consent of the senate, shall on or before the first Monday of March next ensuing, and in every alternate year thereafter, appoint eight inspectors and corders of the firewood brought to the city of Baltimore for sale; the said inspectors, before entering upon the duties of these offices, shall take the following oath or affirmation, as the case may be, before some person qualified to administer the same: I do solemnly swear (or affirm) that I will faithfully, truly and impartially, according to the best of my skill, judgment and understanding, execute, do and perform the office and duty of an inspector or corder of wood, according to the true intent and meaning of the laws of this State relative to the same; so help me God.[1]

Oath.

Ibid, s. 3. City to be divided by mayor, and how.

291. The mayor of the city of Baltimore is hereby authorized and directed to divide the city of Baltimore into as many districts for the purposes of this act, as there are wood corders appointed for the said city, making the said districts as nearly equal as may be, with regard to the quantity of firewood usually landed or deposited therein, at wharves, wood-yards, or other places of deposit in the city of Baltimore for the purposes of sale.

[1] 1862, c. 116, repealed sections 552, 553, 554, 556, 565 and 566 of art. 4 of the P. L. L., and substitutes sections as above.

Ibid, s. 4. Mayor to assign district.

292. It shall be the duty of each and every wood corder in the city of Baltimore to repair to the office of the mayor thereof on the first Monday in May next, and every other Monday thereafter, at such hour as the said mayor shall designate; at which time the said mayor shall assign to each wood corder the district in which he shall act during the next two weeks, so that the said wood corders may act in rotation in the said districts, and no wood corder shall serve in the same district for more than two weeks in succession.

P. L. L., art. 4, sec. 555. Dimensions of cord.

293. All firewood brought to the city of Baltimore by water, or deposited in wood-yards, or other places of deposit therein for sale, shall be at least four feet in length, including one-half of the kerf, and shall be set up, packed and corded, so that every cord of wood shall be eight feet in length, four feet in breadth, and four feet in height, well stowed and packed; and where the wood exceeds or falls short of four feet in length, including half the kerf, the cord shall be proportionably increased or diminished, so as to make the quantity of each cord as nearly equal as possible.

1862, c. 116, s. 5. Penalty for inspecting out of district.

294. If any wood-corder shall inspect or cord wood in any other district than that to which he may be appointed for the time being by the said mayor, except in the unavoidable absence of another wood-corder from his proper district, and with the consent of the mayor, such wood-corder so inspecting or cording wood, shall forfeit and pay the sum of two dollars per cord for every cord of wood so inspected or corded by him, and so in proportion for any less quantity; the said penalty to be recovered by suit in the name of the State of Maryland; one-half for the use of the informer, the other half to the State of Maryland.

Ibid, s. 6. What to be inspected and how.

295. All fire wood brought by water or railroad to the city of Baltimore for sale, shall be set up, packed and corded, under the direction of one of the inspectors or wood-corders appointed under this act, and if either the purchaser or seller shall refuse to have said wood so inspected and corded, or after the same has been inspected and corded, shall alter the

measurement thereof, or sell the same by any other measurement, or if any person or persons shall knowingly purchase or receive any fire wood brought by water or railroad to the city of Baltimore, which has not been corded, inspected and passed by one of the corders or inspectors aforesaid, shall forfeit and pay two dollars per cord, and so in proportion for any less quantity of wood so sold and delivered, or purchased by him or them, to be recovered in the name of the State; one-half for the use of the informer, the other half for the benefit of the State, before a justice of the peace, in the same manner as small debts are now recoverable by law.

Penalty for receiving without inspection.

Ibid, s. 7. Who may be inspector.

296. No person engaged in vending or trading in wood, or as a partner, as clerk or agent for a trader or vender of wood, shall be appointed inspector or corder, nor shall any inspector or corder while holding his office be so engaged, directly or indirectly, and the governor may summarily dismiss or remove from office such inspector or corder on receiving satisfactory proof of a violation on his part of the provisions of this act.

Ibid, s. 8. Penalty for acting without appointment.

297. Any person not duly appointed according to the provisions of this act, who shall act as such inspector or corder of wood in the city of Baltimore, shall forfeit and pay the sum of two hundred dollars; the said penalty to be imposed on conviction of the offender on indictment in the Criminal Court of Baltimore, one-half to the informer, the other half to the State of Maryland.

Ibid, s. 9. Tax on inspector's commission.

298. Each inspector appointed under the provisions of this act, shall, on the receipt of his commission, pay to the treasurer of the State, for the use of the State, the sum of fifty dollars, and on the expiration of one year from the date thereof, an additional sum of fifty dollars, the failure of payment of which shall be deemed and taken as a resignation of the office of inspector; and no person can act as inspector or corder of fire wood in the city of Baltimore, unless having first complied with the requirements of this section.

P. L. L., art. 4, sec. 557. Inspectors to give certificate of quantity.

299. The inspectors and corders shall give to each person for whom they inspect and cord any fire wood a certificate of the quantity contained in any lot of wood by them inspected

and corded, stating the hour and day when the inspection was made.

Ibid, sec. 558. Persons aggrieved may apply to mayor to appoint reviewers.

300. If any person shall consider himself aggrieved by the measurement of any inspector and corder, he may, before sunset in the day on which the wood has been inspected, apply to the mayor of the city to select three persons to examine into the cause of the complaint.

Ibid, sec. 559. Oath of reviewers.

301. The persons so appointed shall not be vendors of wood or purchasers, (except for their family use,) and shall, before acting on such appeal, make the following oath before some person authorized to administer the same: "I do solemnly swear that I will faithfully and impartially try the matter depending on this appeal, and determine the same according to my best judgment, without fear, favor or affection, so help me God."

Ibid, sec. 560. Appeal to be made and tried before sunset.

302. Such appeal shall be made and tried before the sun-setting on the day on which the wood was inspected.

Ibid, sec. 561. Reviewers to give notice to parties: to be satisfied that notice has been given and that the wood remains entire.

303. The reviewers, before they proceed to act, shall give notice of the time of making the review to the buyer, seller and corder of the wood to be reviewed, or shall be satisfied by competent testimony that such notice has been given by some of the parties; and shall also be satisfied, either by the admission of all the parties, or by competent testimony, that the wood to be reviewed remains entire, as passed by the corder.

Ibid, sec. 562. Inspector when and to what extent responsible.

304. The inspector and corder from whose decision the appeal is made, shall be responsible to the party appealing for the sum of twenty cents for each and every cord that the persons who try the appeal shall determine to be of deficiency or excess, as the case may be, to be recovered by summons in the name of the party aggrieved, before a justice of the peace, in the same manner as other small debts are recovered; provided, that if the deficiency or excess shall, in the opinion of said parties, have proceeded from error of judgment in the inspector or corder, then, upon their certifying the same under their hands to the mayor, the party aggrieved shall

Proviso.

have no right to recover from the inspector and corder any thing more than the costs of appeal.

Ibid, sec. 563. Report and pay of reviewers.

305. The persons trying the appeal shall make return to the mayor of their decision, and shall be entitled to receive fifty cents each for their services.

Ibid, sec. 564. Fees of inspectors.

306. The inspectors and corders of fire wood shall be entitled to demand and receive six and a quarter cents for each cord of fire wood inspected and corded by them, to be paid by the party at whose request the service was performed.

WOOD ON WHARVES.

P. L. L., art. 4, sec. 951. Penalty for excessive wharfage on wood.

307. Any person who shall charge, exact or receive more than six and a quarter cents upon each cord of wood landed upon any wharf in the said city shall, upon complaint and conviction thereof before any justice of the peace for said city, be fined not less than five nor more than ten dollars in each case; one-half to the informer and the other half to the State, to be recovered as fines imposed by the courts of this State.

Ibid, sec. 952. Wood may be landed on State wharves: not to interfere with tobacco.

308. Any person carrying wood to Baltimore for sale may land the same upon the State wharves whenever permitted to do so by any tobacco inspector in the warehouse to which the wharf is attached, but such permission shall not interfere with that portion of the public wharves set apart for the use of boats laden with tobacco.

Ibid, sec. 953. Wharfage on wood.

309. The person landing wood upon the public wharves under the preceding section shall pay to the tobacco inspector the sum of six and a quarter cents a cord, to be by the said inspector paid into the treasury, and the inspector shall be allowed twenty per cent. upon the money so received and paid into the treasury.[1]

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[1] See further under Harbor, Docks and Wharves, *ante*, and Licenses, *post*.

CITY INSPECTIONS.

310. The mayor and city council may pass ordinances to establish and regulate inspections within the city, subject to the present or any future laws of the State.

P. L. L., art. 4, sec. 28. Power to pass ordinances regulating inspections in city.

WEIGHTS AND MEASURES.

311. The mayor and city council shall pass such ordinances as will make the standard of weights and measures the same in the city of Baltimore as in the rest of the State.[1]

P. L. L., art. 4, sec. 942. Corporation to make standards conform to State standards.

312. They may regulate and fix the assize of bread, and regulate and establish the size of bricks that are to be used in the houses to be built in said city.

Ibid, sec. 943. To regulate assize of bread and size of bricks.

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[1] The following is Art. 96 of the Public General Laws, regulating Weights and Measures throughout the State:

1. The standards for weights and measures in this State, except as otherwise provided in this article, shall be such as are used at the custom house in the city of Baltimore.

2. The county commissioners of each county shall, except where otherwise directed by the local law, on or before the first day of May in each year, appoint some person as keeper of the standards of weights and measures, who shall safely keep and preserve the same, and when required, deliver them to the county commissioners, or to such person as they may appoint to receive the same, and who shall perform the several duties prescribed by this article.

3. The person so appointed shall, before he enters upon the duties of his office, give bond to the county commissioners in the penal sum of five hundred dollars, conditioned for the faithful discharge of all the duties appertaining to his office.

4. All weights and measures used in this State in the vending of articles, shall be inspected by the said standard keeper for the county, once in every year, under a penalty not exceeding twenty dollars, to be paid by the person owning or using the same, and when adjusted, shall be by the standard keeper branded, marked or stamped with the letters M. S., meaning thereby Maryland standard, in such manner, and on such parts of such weights and measures as in his judgment, will be most lasting and effectual in preventing fraudulent practices or impositions in the use thereof.

5. The weights and measures so examined, branded or stamped, and no other, shall be used within this State in the vending of such articles as are directed by law to be or are usually sold by weight or measure, under a penalty of twenty dollars, and all articles sold within this State shall be sold by said weights or measures under the like penalty.

6. All scale-beams used in the vending of articles in this State shall be inspected and stamped by the keeper of the standards of weights, as weights are directed to be stamped, and any person using scale-beams in this State not stamped

as herein directed, shall forfeit and pay a sum not exceeding twenty dollars for each offence.

7. The keepers of standards of weights and measures shall attend at the different markets, towns and villages, in the county, for which they shall respectively be appointed, at least once in each year, and at the different public inspecting warehouses in the said counties at least twice in each year, on some certain days to be appointed by the county commissioners, of which days public notice shall be given by advertisements inserted in some one or more newspapers in the counties in which there may be such paper printed, and also by advertisements set up at some conspicuous place in the said markets, warehouses, villages and towns, and shall inspect and adjust all beams and scales, weights and measures, used or intended to be used in the said county.

8. Each keeper of standards shall keep a book in which he shall register the names of the persons whose beams and scales, weights and measures, he has adjusted, together with the day of the month and year, and the number and description of the same so adjusted, which book he shall submit to the inspection of the county commissioners once in each year, or oftener if required.

9. If any person shall neglect or refuse to have his beams and scales, weights and measures, inspected and adjusted as herein directed, when required to do so by the proper officer, he shall forfeit and pay five dollars for every day during such delinquency.

10. If any standard keeper shall be informed or have reason to suspect that any person is using, or has in his possession with a fraudulent intention, any false beams, scales or measures, he shall examine the same, and if he find them, or any of them, to be false, he shall seize the same as a forfeiture, and adjust and sell them at public auction, and shall annually return a statement of the money received therefor under oath to the county commissioners.

11. If any weight or measure which shall have been branded or stamped as herein required, shall be broken, injured, altered, or changed, or condemned by the standard keeper, and shall be found thereafter in the use of any person within this State, such person shall forfeit and pay twenty dollars for each offence.

12. Each standard keeper shall receive such compensation for the discharge of his duties as the county commissioners shall think proper to allow, which shall be levied on the assessable property of the county and collected as other county charges.

13. Whenever any standard keeper shall be applied to, to adjust scales, weights and measures, by adding to, or diminishing the same, or to adjust scale-beams, he shall be allowed an additional reasonable compensation therefor, to be paid by the party so applying for his services.

14. The one-half of all fines and forfeitures imposed by the preceding sections of this article shall go to the informer, the other to the use of the county, and in all suits therefor, the informer shall be a competent witness.

15. Nothing contained in the preceding sections of this article shall apply to the city of Baltimore, or to any private house-keeper not in trade or pursuing some kind of merchandise as a business.

16. All measures of dried fruit used in this State shall be fixed and uniform and tried by the standards herein established, and the measure to be filled even,

without rise or heap, and the fruit not packed or pressed in the measurement thereof, and every person violating the provisions of this section shall be subject to a fine of five dollars, to be recovered before a justice of the peace as other debts, one-half to the informer and the other half to the use of the State.

17. All oats brought and sold in this State, shall be by struck measure.

18. Potatoes in this State shall be sold by weight, at the rate of fifty-six pounds to the bushel, and any person offending against the provisions of this section shall be subject to a fine of ten dollars, to be recovered before any justice of the peace of the city or county where said offence may be committed.

1861, c. 78, provides that the provisions of section 18 shall not apply to the sale of potatoes in the counties of Frederick, Washington, Allegany, Anne Arundel, Carroll and Montgomery.

19. Hay and straw, which may be sold by weight in this State, shall be sold by the nett hundred, and every twenty hundred pounds nett weight shall be a ton.

20. Act of 1867, c. 317. The size and dimensions of the corn barrel measure shall be as follows: twenty-one inches in diameter (clear of staves) at the bottom, (and twenty-three inches in diameter clear of staves) and shall hold five struck bushels of corn, and all the lime sold in this State, or delivered in this State to any person or persons, shall be measured in a bushel measure of the following dimensions, viz: twelve inches (clear of staves) at the bottom, and fifteem inches in diameter (clear of staves) at the top, and shall be fifteen high inside perpendicular measure, and in all cases where the lime has already slackened, it snall require two such bushels to make one bushel of quick lime; any person violating the provisions of this section shall, on conviction in any court of this State, or before any justice of the peace, be fined not less than fifty dollars nor more than five hundred dollars, one-half to the informer, and the other half to go to the public school fund of the State.

21. Quercitron and all other ground bark, sumach and all other articles sold by weight, shall be sold by the one hundred pounds for one hundred weight, and twenty hundred shall be considered and taken for a ton, and so in proportion for any greater or smaller quantity.

22. The count of all staves and heading, shall be by the short hundred, so that one thousand pieces shall be computed as one thousand staves or heading, as the case may be, and any inspector or dealer in staves or heading, attempting to count or compute at any greater rate than one thousand pieces to the thousand, and in that proportion for a greater or less number, shall be deemed guilty of a misdemeanor, and be subject to indictment, and upon conviction shall be fined not exceeding one hundred dollars, one-half to the informer and the other half to the State.

23. No person shall sell any package or parcel of cotton, woollen or other dry goods, having any mark thereon or attached thereto, indicating or stating a greater number of yards or larger quantity than is actually contained in such package or parcel, and any auctioneer, commission merchant or other dealer so selling, shall in each case forfeit and pay to the purchaser of each package or parcel, double the value of the quantity of goods which on actual measurement it shall be found there is wanting in such package or parcel to make up the number of yards or quantity thereon.

24. All sums not exceeding one hundred dollars forfeited and payable under the preceding section, shall be recoverable by the purchaser before a justice of the

peace as other debts, and all sums exceeding one hundred dollars by action of debt in the court having jurisdiction thereof in the city or county where such sales were made.

25. Act of 1868, c. 445. All charges for freight, measurement, weighing, inspection, wharfage and commission on grain, shall be made on the number of bushels as ascertained by weight and not by the running measure, and any one found guilty of a violation of this section shall, on conviction thereof before a justice of the peace, be fined not less than five nor more than fifty dollars, one-half to the informer and the other half to the use of the State; provided, that any one feeling himself aggrieved by any such judgment, shall have the right of appeal to the Circuit Court of the county or the Baltimore City Court, as the case may be, on giving bond in the usual form to prosecute such appeal, and for the payment of the judgment and costs if such judgment should be affirmed.

ORDINANCES.

INSPECTIONS.—FLOUR.

No. 54. May 23, '61.

Appointment of reviewers of flour.

Two millers.

Two bakers.

Two merchants.

1. There shall be appointed annually, as other city officers are appointed, six persons, who shall be called reviewers of flour, two of whom shall be millers, or persons concerned in the manufacture of flour; two of them bakers, or persons concerned in the baking business; and two of them merchants, and not concerned in the milling or baking business. And any person who may consider himself aggrieved by the judgment of either of the flour inspectors, may apply to the mayor, and name to him one of the aforesaid reviewers, and it shall be the duty of the mayor to require from the inspector whose judgment is appealed from, to name another of the said reviewers, after which the mayor shall name a third; and he shall then issue his warrant to such three named persons, requiring them to review the flour inspected, which said three persons, after taking an oath or affirmation as reviewers, shall proceed to view and carefully examine the same; and if they, or any two of them, shall declare the same to be of a quality different from that declared by the inspector, the said inspector shall put on the barrel or barrels such brand as they or any two of them may determine to be proper; and if the judgment of the inspector is confirmed, the person or persons at whose request the review has been called, shall pay three dollars to the register for the use of said reviewers, to whom he shall pay the same.

Reviewers appointed on appeal.

Oath.

Pay.

GAS METERS.

2. Annually, in the month of February, there shall be appointed, as other city officers are appointed, a suitable, experienced and competent person, who is not a stockholder in or an employee of any gas company, or interested in any way in the manufacture of gas meters or illuminating gas, as inspector and sealer of gas meters, who, before he enters upon the discharge of his duties, shall give bond and security to the satisfaction of the mayor in the penal sum of one thousand dollars, conditioned for the faithful discharge of the duties of his office, and take an oath or affirmation before some officer legally qualified to administer the same, to faithfully, diligently and impartially discharge the duties of his office. No. 47, s. 1, May 22, '61. Inspector and sealer of gas meters appointed. Bond. Oath.

3. It shall be the duty of the said inspector and sealer of gas meters, whenever required in writing, and, on the prepayment of a fee hereinafter specified, to inspect, examine, test, prove and ascertain the accuracy of the registration of any and all gas meters, used or intended to be used for measuring or determining the quantity of carburetted hydrogen or illuminating gas, consumed by any person or persons in this city; and when proved to be or made correct within the meaning of this ordinance, to stamp, seal or mark all such meters, and each one of them, with some appropriate, distinct and intelligible device, to be approved by the mayor. Ibid, s. 2. His duties. Stamp of inspector.

4. The said inspector and sealer of gas meters is authorized to purchase for the use of the city such apparatus as will be required by him for the proving, testing and accurate registration of gas meters in use in the city of Baltimore. Ibid, s. 3. Apparatus.

5. The inspector and sealer of gas meters shall, with said apparatus, inspect and prove the gas meter of any consumer at his written request, and in his presence if he so desire, upon the payment in advance to the said inspector and sealer of gas meters the sum of one dollar for each and every meter removed from the premises, proved, tested, sealed and replaced, and if any meter on being so tested shall be found to register Ibid, s. 4, No. 77, June 8, '64. To inspect and prove gas meters. Fee to inspector.

When fee to be returned.

Gas company.

Two per cent.

Appeal.

Referee.

inaccurately as defined by this section to the injury of the consumer, the fee paid by said consumer shall be returned, and a like amount shall be paid to the inspector and sealer by the gas company, person or persons whose manufacture of gas has been consumed, as a remuneration for the removal, testing, correcting, sealing and replacing of such meters; and every such meter shall be considered correct, and sealed accordingly, which shall register quantities varying from the true standard measure of gas if not more than two per centum in favor of either the company or the consumer; the apparatus used by the inspector and the mode of testing practised by him to be approved by the mayor, and in all cases in which an appeal from the decision of the inspector and sealer of gas meters as to the accuracy of any meter tested shall be made, such case shall be referred to and adjudged by a suitable person to be appointed by the mayor, and whose decision shall be final.

Ibid, s. 5; No. 54, Aug. 7, '67. New meter to be inspected.

6. It shall not be lawful hereafter for any new meter to be furnished or put in use in this city by any gas company which shall not have been previously proved to be correct, and sealed by the inspector and sealer authorized by this ordinance, except during such time as from any cause the office shall be vacant, or said inspector and sealer shall, after request made, refuse or neglect to prove, and if correct, seal the meters furnished at his office by any gas company for that purpose, and for said proving and sealing the company shall pay said officer the sum of twenty-five cents for each and every new meter so proved and sealed as aforesaid; any gas company convicted before a justice of the peace of violation of the provisions of this section, shall forfeit the sum of ten dollars, and a further sum of five dollars for each and every day that such meters are allowed to be continued in use after a notice ordering its discontinuance has been served upon such company by the inspector and sealer of meters.

Penalty against gas company.

Fine.

Ibid, s. 6. Meters to be sealed and stamped.

7. No meter shall be set unless it be sealed and stamped in the manner required by the preceding sections.

8. It shall be the duty of the inspector and sealer of gas meters, whenever he receives a written request to do so, to visit the meter on the premises of any consumer of gas, and impart to such consumer such instructions relating to the proper manner of regulating the meter, or filling it with water or spirits, as desired, for which services the consumer shall pay to the inspector the sum of twenty-five cents. Ibid, s. 7. Inspector to visit premises. Instructions. Fee.

9. The inspector and sealer of gas meters hereby authorized shall enter in a book prepared for him for that purpose, the date of testing, number, size, name of manufacturer, and registration of any meter proved and sealed, or condemned as aforesaid, and the number of premises visited for giving instructions, and shall make a full report thereof annually to the mayor and city council, and shall receive an annual salary of five hundred dollars, to be paid as the salaries of other city officers are paid, in addition to the fees to be charged as hereinbefore prescribed, but no fees to be charged or allowed, however, in any case where the mayor and council, in their corporate capacity, are concerned. Ibid, s. 8; No. 54, Aug. 7, '67; No. 77, June 8, '64. Inspector's record. Report to mayor. Salary. Fees.

10. If any person or persons shall counterfeit, or wilfully deface the seal placed upon any gas meter by the inspector and sealer, the person or persons so offending, on conviction before a justice of the peace, shall forfeit and pay the sum of ten dollars. Ibid, s. 9. Counterfeiting or defacing seal. Penalty.

ILLUMINATING GAS.

11. Annually, in the month of February, there shall be appointed, as other city officers are appointed, a suitable, experienced and competent person, known as a practical chemist, who is not a stockholder in or an employee of any gas company, or interested in any way in the manufacture of illuminating gas in this city, as inspector of illuminating gas, such as is now furnished by the gas company of this city, or such as may be furnished hereafter by any company, person or persons for the same purpose, who, before he enters upon the discharge of his duties, shall give bond with approved No. 53, s. 1, May 28, '61. Inspector of illuminating gas appointed. Gas company. Bond of inspector.

security to the satisfaction of the mayor in the penal sum of one thousand dollars, conditioned for the faithful discharge
Oath. of the duties of the office, and take an oath or affirmation before any officer legally qualified to administer the same, to faithfully, diligently and impartially discharge the duties of the office.

Ibid, s. 2. Duties of inspector. 12. It shall be the duty of the said gas inspector, to inspect, test and determine the purity and illuminating power of the carburetted hydrogen or illuminating gas, furnished by any gas company, person or persons in Baltimore to consumers, and to report to the mayor at least once in each week, in writing, the condition of said gas as to purity and illumin-
Report. ating power, said weekly report to be published at the discretion of the mayor, in any two of the city papers, to be designated by him.

Ibid, s 3. Quality of gas. 13. The quality of the illuminating gas supplied by any gas company, person or persons in the city of Baltimore shall be determined at the place where the mayor and gas inspector shall place the necessary apparatus, and shall be
Illuminating power. with respect to its illuminating power such as to produce from the English parliamentary standard burner, having fifteen holes and a seven inch chimney, and consuming five cubic feet of gas per hour, a light equal in intensity to that produced by twelve standard sperm candles of six to the pound, each consuming one hundred and twenty grains of sperm per hour, and such gas shall not contain more than twenty grains of sulphur in any form in one hundred cubic feet of gas.

Ibid, s. 4. Defective gas. 14. If the carburetted hydrogen or illuminating gas supplied by any gas company, person or persons in the city of Baltimore shall be at any one time of less illuminating power or of less purity than according to the standard established by the preceding section, it shall be so reported by the gas inspector, the company, person or persons so supplying the
Penalty. same shall be subject to a penalty of one hundred dollars, to be recovered before any justice of the peace for the use of the city, for each and every day during which such violation

shall continue; provided, however, that if it shall appear that such deviation from the above named standard could not have been prevented by ordinary care and prudence, but was occasioned by some unavoidable cause, then the said penalty shall not be enforced. Proviso.

15. The said gas inspector shall purchase for the use of the city all necessary apparatus and materials required for the proper discharge of his duties, and shall place them in such location as the mayor and gas inspector shall deem proper. Ibid, s. 5. Apparatus.

16. The salary of the gas inspector shall be three hundred and sixty-five dollars per annum, to be paid out of the city treasury as the salaries of other city officers are paid.[1] Ibid, s. 6. Salary.

HAY AND STRAW.

17. Any person bringing loose hay or straw to the city for sale, in wagon, cart or other carriage, and having sold the same, shall, on delivery thereof, return to the State scale, and have the empty vehicle weighed, and obtain from the weigh-master a receipt of the nett weight thereof, and give the same No. 33, s. 60, R. O. Sale of hay and straw regulated.

[1] The above enactments as to gas meters and illuminating gas, were authorized by 1858, c. 417, which provides: that the mayor and city council of Baltimore be authorized to establish by an ordinance or ordinances, and therein and thereby to enforce by proper penalties, an inspection and measurement of carburetted hydrogen or illuminating gas, and of meters for measuring the same in that city, and also to provide for the appointment of one or more inspectors and measurers, not exceeding four, for that purpose, whose duties and salary or compensation, by foot or otherwise, may be provided for by the said ordinance or ordinances.

That in any case in which the said inspectors and measurers, or any one of them, shall have adjudged the said gas to be below a proper standard, to be settled by the said ordinance or ordinances, or any meter to be defective, no recovery shall be had for any bill or account for the supply of gas during such deficiency of meter or inferiority of gas; and if any person or persons, or any incorporated company shall shut off the gas supplied to the person or persons who may refuse to pay for such inferior gas, or according to the measurement of such defective meter, such person or persons, or incorporated company, shall be liable to damages, to be trebled by the court or justice of the peace before whom any action relating to the refusal to supply the said gas may be brought, and that after the expiration of thirty days after the rendering of any such judgment, no former recovery shall be pleaded.

to the purchaser of his hay or straw; and any person delivering any parcel of hay or straw to a purchaser, of less weight than charged for, shall be fined twenty dollars for each and every offence.

Penalty.

REPORTS OF INSPECTORS.

No. 58, R. O. Inspectors to report quarterly to mayor.

18. Every inspector holding his appointment under this corporation, (unless otherwise directed by the ordinance providing for his appointment and prescribing his duties,) shall on the last day of March, June, September and December, in each and every year, make on oath, or affirmation, as the case may be, a true statement to the mayor of the city of Baltimore, of all the articles inspected by him in pursuance of the duties of his office.

STREETS.

No. 33, s. 7, R.O. Inspection of goods on streets regulated.

19. Flour, spirituous liquors or such other articles as are to be inspected or gauged under ordinances or statutes, may be placed on the footways of any of the streets, lanes or alleys of the city, such articles, however, to be arranged so as not to obstruct the passage through the streets or over the footways from the stone or other pavement to any house, store, cellar, or back-yard, or from any house, store, cellar or back yard to the pavement, without the consent of the owner or occupier; every person so offending shall forfeit and pay the sum of five dollars.

Penalty.

WEIGHTS AND MEASURES.

No. 49, s. 1, R.O. Keepers of standards appointed.

20. Three persons shall be annually appointed keepers of the standards of weights and measures, whose duty it shall be safely to keep and preserve the same, and when required, to deliver them to the mayor, or such other person as he may appoint to receive the same, and to perform the several duties prescribed by the ordinances respecting weights and measures; and before they shall enter upon the duties of their appointment, they shall each give bond to the mayor and city council of Baltimore in the penal sum of one thousand dollars,

Bond.

conditioned for the faithful discharge of all the duties appertaining to his office. Two of the said keepers shall be the keepers of the standard of weights and of liquid measures, and the other of dry and long measures. Two keepers of weights and liquid measures one keeper of dry and long measures.

21. The keepers of the standards of weights and measures shall each keep an office in a central location, in their respective districts, where they shall attend daily between the hours of eight and ten A. M. No. 1, Feb. 14, '61. Offices.

22. It shall be the duty of the comptroller to procure one set of weights and measures for the use of the appropriate inspectors, and one standard set of the same, to be kept in his office as a guide to the inspectors, and by which the weights and measures of the inspectors shall be regulated. No. 33, s. 1, Mar. 21, '59. Comptroller to procure sets of weights and measures.

23. The standard of weights and measures to be deposited in the comptroller's office shall be the same as the standard of weights and measures of the United States, and the same shall be the standard for the city of Baltimore. Ibid, s. 2. What the standard shall be.

24. It shall be the duty of each inspector to compare and adjust his weights and measures, at least once a quarter with the standard set in the comptroller's office, and any inspector failing so to do shall forfeit and pay a sum of twenty dollars, to be collected as other fines and forfeitures are now collected. Ibid, s. 3. Inspectors to adjust weights and measures. Penalty.

25. It shall not be lawful for any person, under a penalty of two dollars for each offence, to use any bushel, half bushel, peck or half peck, or quarter peck measure, unless the same be of the dimensions following, to be measured from inside to inside, to wit: every bushel measure shall not be less than fifteen and a quarter inches in diameter at the top, fourteen and a half inches in diameter at the bottom, twelve inches and three-eighths of an inch deep, and the staves three-fourths of an inch in thickness; every half bushel measure shall not be less than twelve and one-half inches in diameter at the top, eleven and one-half inches in diameter at the bottom, nine and one-half inches deep, and the staves at least one No. 49, s. 2. R. O. Dimensions of dry measures.

inch thick; every peck measure shall not be less than ten inches in diameter at the top, nine and one-quarter inches in diameter at the bottom, seven inches and five-eighths of an inch deep, and the staves three-quarters of an inch thick; every half peck measure, when joined to the peck, shall not be less than eight inches and five-eighths in diameter at the top, and nine inches and an eighth of an inch in diameter at the bottom, four and one-half inches deep, and the staves five-eighths of an inch thick; and every half peck measure, when made separate from the peck, shall not be less than nine inches and one-eighth of an inch in diameter at the top, eight inches and five-eighths of an inch in diameter at the bottom, four and one-half inches deep, and the staves five-eighths of an inch thick; every quarter peck measure shall not be less than six inches and an eighth of an inch in diameter at the top, and five inches and seven-eighths of an inch in diameter at the bottom, four and three-quarter inches deep, and staves one-half of an inch thick.

Ibid, s. 3, Weights, &c. to be stamped.

26. All weights and measures used within the city of Baltimore in the vending of articles, shall be inspected and stamped, or branded by said standard keepers, under a penalty of not exceeding twenty dollars, to be paid by the person or persons owning or using the same, and when adjusted, shall be by the said standard keepers, branded, or stamped with the letters B. S., meaning thereby Baltimore standard, in such manner and on such parts of the said weights and measures as in their judgment shall be most lasting and effectual in preventing and detecting fraudulent practices or impositions in the use of such weights or measures, and the like inspection shall be repeated once in every year, and the branding or stamping renewed when necessary, and such weights and measures, so examined and stamped, or branded as aforesaid, and no other, shall be used in the city of Baltimore in the vending of such articles as are directed by law to be or are usually sold by weight or measure, under a penalty not exceeding twenty dollars.

Penalty.

27. All dry measures shall be inspected and branded agreeably to the provisions of the preceding section, except that in lieu of the letters B. S., they shall be branded with letters, Baltimore standard; and any person or persons convicted of counterfeiting said brand, or of branding on any measure any other letters for the purpose of deception, shall forfeit and pay for every such offence ten dollars.

Ibid, s. 4. Stamp for dry measures. Penalty for counterfeiting.

28. All scale beams used in the vending of articles in the city of Baltimore, shall be inspected and stamped by the keeper of the standard of weights, as weights are directed to be stamped; and any person offending herein shall forfeit and pay a sum not exceeding twenty dollars for each and every offence.

Ibid, s. 5. Scale beams to be stamped. Penalty.

29. All patent balances, platforms or scales used in the said city for weighing by venders of articles, shall be inspected and stamped or branded by the keeper of the standard of weights and measures, as is provided for with regard to weights and other scales or balances, and upon the weights used in weighing therewith by having stamped upon them the letters B. S., in such manner and on such part thereof as in the judgment of the standard keeper of weights and measures will be most lasting and effectual in preventing and detecting fraudulent practices or impositions in the use thereof, and the like inspection shall be repeated once in every year, and the branding renewed when necessary; and every person using a patent balance, platform or scales in the city not stamped as herein directed, shall forfeit and pay a sum not exceeding twenty dollars for each and every such offence.

Ibid, s. 6. Patent balances &c. to be stamped and inspected once in each year. Penalty.

30. If, upon examination, the standard keeper of weights and measures shall find any patent balance, platform or scales untrue, it shall be condemned by him, whereupon he shall stamp or brand upon it the word "condemned;" and any person or persons who shall afterwards use such condemned patent balance, platform or scales until the same shall have been re-adjusted, stamped and branded by the keeper of the

Ibid, s. 7. When found untrue to be condemned. Penalty for using condemned balances, &c.

standard of weights and measures, shall each forfeit and pay for each offence, a sum not exceeding twenty dollars.

Ibid, s. 8. Penalty for using altered weights, &c.

31. If any weight or measure which shall have been branded or stamped agreeably to the provisions of this ordinance, shall be broken, injured, altered or changed, or condemned by the standard keeper, and found thereafter in the use of any person within the city of Baltimore, every such person shall forfeit and pay twenty dollars for every such offence.

Ibid, s. 9. Fees of standard keepers.

32. The standard keepers shall respectively have and receive as a compensation for the discharge of the duties required of them, the following sums, to wit:—For every bushel measure, eighteen cents; for every half-bushel, peck and half-peck measure, twelve cents; for every five gallon measure, twelve cents; for every half-gallon, quart, pint, half-pint, gill or half-gill measure, six cents; for every fifty-six pounds or fifty pounds weight, six cents; for every twenty-eight, twenty-five, fourteen or seven pounds weight, five cents; for every set of weights, from four pounds to half an ounce, twenty-five cents; for every single weight under seven pounds, four cents; for every yard measure, six cents; for stamping every scale beam not exceeding eighteen inches, twelve cents; if above eighteen inches, twenty-five cents; for inspecting patent balances, platforms or scales, with their weights, which weigh less than one hundred pounds, fifty cents; if over one hundred pounds and less than one thousand pounds, seventy-five cents; if above one thousand pounds, one dollar; and all patent balance platforms, or other patent weighing apparatus, shall be tested to the amount of the capacity which they are calculated to weigh.

No. 38, s. 1, June 12, '58. To inspect once a year and no oftener.

33. It shall be the duty of the inspector of long and dry measures, and the inspectors of weights and liquid measures, to inspect all articles which are provided for to be inspected by them, once a year, and no oftener; the inspection year to date from the first day of March in each and every year, and end with the last day of February ensuing.

34. For a violation of the provisions of the preceding section, the inspectors so violating shall, on conviction thereof before any justice of the peace, forfeit and pay the sum of twenty dollars for each and every violation, half of the fine to go to the informer. Ibid, s. 2. Penalty.

35. The keepers of the standards of weights and measures shall attend at the different markets, warehouses, stores and shops within the city, at least once in each and every year, as provided in preceding two sections, and shall inspect and adjust all beams and scales, weights and measures therein used or intended to be used; and each of them shall keep a book in which he shall register the names of the persons whose beams and scales, weights and measures he has so adjusted, together with the day of the month and year, and the number and description of the same so adjusted, which book he shall submit to the inspection of the mayor once in every year, or oftener, if the mayor shall require it. No. 49, s. 10, R. O. To visit markets, stores, &c.; to inspect weights, &c. Books to be kept.

36. If any person or persons shall refuse or neglect to have his, her or their beams and scales, weights and patent balances, and measures inspected and adjusted, as aforesaid, when required so to do by the proper officer, he, she or they shall forfeit and pay five dollars for every day during such delinquency; and if any of the said inspectors or any of the clerks of the markets, are informed or have reason to suspect that any person or persons are using or have in their possession, with a fraudulent intention, any false beams, scales, weights, patent balances or measures, it shall be their duty, and they are hereby authorized to examine the same, and if they find them or either of them false, to seize the same as a forfeiture, and after having the same adjusted, to sell them at public auction. Ibid, s. 11. Penalty for refusal to allow inspection. Duties of inspectors and clerks of markets.

37. The standard keepers shall return upon oath or affirmation to the register, annually, a statement of the money they may receive in the performance of the duties prescribed by this ordinance, and the mayor shall divide the city into two districts, to be called the eastern and western districts. Ibid, s. 12. Annual return to register.

Ibid, s. 13. Additional compensation.

38. Whenever any one of the standard keepers aforesaid, shall be applied unto to adjust scales, weights and measures, by adding to or diminishing the same, or to adjust scale beams or patent balances, he shall be allowed a reasonable compensation therefor, in addition to the fees of office he is hereby authorized to receive.

CANDLES.

No. 33, s. 40, R. O. Candles to be sold by weight.

39. It shall not be lawful for any person to sell or offer for sale, any candles otherwise than by weight, and every person offending herein, or delivering any quantity or parcel of candles to a purchaser of less weight than he has sold or offered to sell, shall for each offence pay a fine of two dollars.

Penalty.

CHARCOAL.

No. 50, s. 1, R. O. Measurer of charcoal appointed.

40. One person well skilled in the quality and measure of charcoal, shall be annually appointed as other city officers are, to measure all charcoal brought to the city of Baltimore for sale; and the said measurer shall, with the approbation of the mayor, have power to appoint one or more deputies; the said measurer being responsible for the official acts of said deputy or deputies; and the said measurer and each of his deputies before entering upon the duties of his office, shall make oath or affirmation before the mayor, that he will faithfully execute the duties of his office according to the best of his knowledge and ability.

Deputies.

Oath.

Ibid, s. 2. Mayor to designate stands.

41. The mayor shall designate stands for the measurement of charcoal, and establish such and so many as in his judgment the public convenience may require.

Ibid, ss. 3, 4, No. 19, Apl. 17, '60. Charcoal to be measured.

42. All charcoal brought to the city of Baltimore for sale, shall be measured by the person or persons appointed to measure the same, who shall give to the seller a certificate of the quantity thereof; and for each certificate shall be entitled to receive twenty-five cents, if the quantity do not exceed twenty-five bushels; thirty-seven and a half cents, if more than twenty-five and less than fifty bushels; and fifty cents, if more than fifty bushels. It shall not be lawful for any per-

son or persons, except as mentioned in the succeeding section, to sell or offer for sale any charcoal within the limits of the city of Baltimore, without first having the same inspected in accordance with the above provisions, under a penalty of five dollars for each and every offence, to be collected as other fines and forfeitures are now collected, and one-half of the fine to go to the informer. Penalty.

43. The retailers of charcoal, bringing the same into the city of Baltimore, for the purpose of retailing it by the bushel or the barrel, shall not be required to have the same measured under the provisions of the preceding section. No. 43, May 7, '61. Retailers of charcoal exempt.

44. The measurer of charcoal shall estimate and allow for each bushel of charcoal measured by him, twenty-seven hundred and forty-seven seventy one-hundredths cubic inches, making full allowance for a cone or heaped measure. No. 48, May 22, '61. Standard for measuring.

45. No measurer of charcoal shall, either directly or indirectly, be concerned in the purchase or sale of charcoal, under the penalty of twenty dollars for each and every offence. No. 50, s. 5, R. O. Measurer not to deal in charcoal.

46. If any person bringing charcoal to the city for sale, in any wagon, cart or other carriage, shall practise any device or fraud to deceive in quantity, the driver of such wagon, cart or other carriage, shall forfeit and pay ten dollars for each and every offence. Ibid, s. 6. Penalty for fraud.

47. Any person may retail charcoal out of any wagon, cart or other carriage, in any of the streets, lanes or alleys in the city, by applying to the comptroller for a license to that effect, for which the person so applying shall pay two dollars; and if any person shall sell or offer for sale charcoal, by retail, without first obtaining such license, he shall forfeit and pay, for every such offence, two dollars. Ibid, s. 7. Retailing charcoal. License. Penalty.

COAL.

48. It shall not be lawful for any person or persons to sel anthracite or other coal, except bituminous, in any other way than by the ton, half ton, quarter ton, or fraction of a ton, as established by law, which is 2,240 pounds, under a penalty of No. 69, R. O. Anthracite coal to be sold by the ton of 2,240 lbs. Penalty.

ten dollars for each and every offence; and should it be deficient in weight at the time of delivery, an additional penalty of ten dollars, for each and every offence, one-half of said penalty to be paid to the informer, and the other to be paid into the city treasury; provided, that nothing herein contained shall prevent the selling of a single bushel, half bushel or peck of coal.

Proviso.

FIREWOOD.

No. 33, s 37, R. O.

Sale of firewood regulated.

49. It shall not be lawful for any person or persons to sell or offer for sale, in any of the streets, lanes, alleys or highways of the city, any firewood otherwise than by the cord, half cord or quarter cord; and every person offending herein, or delivering any quantity or parcel of firewood to a purchaser of less measurement than he has sold or offered for sale, shall for each and every offence pay a fine of five dollars for each load; provided, nothing herein contained shall be so construed as to prevent persons from selling wood by the armful, or loads of chips or brush.

Penalty.

Proviso.

ICE.

No. 61, s. 1. R.O.

Ice to be sold by weight.

50. All ice exposed for sale in the city, shall be sold by weight, except in such cases where it may be otherwise agreed upon between the buyer and seller; and it shall be the duty of all sellers of ice to be furnished at the time of delivery, with a suitable steelyard, balance or other apparatus for weighing, duly adjusted and stamped, as provided by ordinance, with which to weigh the quantity of ice sold, if required by the buyer.

Ibid, ss. 2, 3.

Standard weight.

51. The standard weight of the bushel of ice shall be held and taken at sixty pounds avoirdupois, and of smaller measures in proportion. The penalty for each and every violation of this and the preceding section shall be five dollars, one-half of said penalty to the informer, and the other half for the use of the city.

Penalty.

ARTICLE XXVIII.

JAIL.

STATUTES.

1. Mayor and council to appoint visitors: their powers and duties: ordinance to be passed: effect of same: provisos.
2. Title to property: powers and privileges.
3. Oath of visitors.
4. Three to form a quorum.
5. Election of president and secretary.
6. Their duties.
7. Times of meeting.
8. Power to make by-laws and visit jail.
9. To provide for prisoners and repair jail.
10. To keep criminals separate from persons waiting trial: labor.
11. To require vagrants and negroes to work.
12. May employ and pay others by consent.
13. To keep accounts of expenses.
14. Appointment and duties of warden.
15. Pay and fees of warden: appeal.
16. Bond of warden.
17. Oath.
18. Visitors to prescribe number of assistants: warden to appoint and remove.
19. Commitments to be directed to warden.
20. To conduct prisoners to and from court.
21. To account for all jail fees.
22. His compensation.
23. May be removed by visitors.
24. Visitors to report annually to mayor and city council expenses of.
25. Warden not to sell liquors, and penalty for so doing.
26. No liquors to be brought into jail.
27. No persons except attorneys, &c., to visit prisoners.
28. Penalty against warden for bringing liquor into jail.
29. Penalty against assistants, &c., for bringing liquor into jail or admitting unauthorized persons.
30. Labor.
31. Prisoners to be kept on prison fare.
32. Who to visit condemned persons.
33 Persons under sentence of death, how to be treated.
34. Convicts to be kept at hard labor.
35. To be kept separate from persons awaiting trial, &c.
36. Warden to send list of vagrants to criminal court: justices' costs.

ORDINANCE.

Five visitors of the jail appointed: their duties.

STATUTES.

1868, c. 3. Mayor and council to appoint visitors or superintendents.

1. The mayor and city council have power to provide by ordinance for the appointment, as other city officers are appointed, of Visitors or other Superintendents of the Jail of said city, and to prescribe the powers and duties of such visitors or superintendents; provided, that until the mayor and city council of Baltimore shall have acted in the premises, the powers and duties of the visitors of the jail of Baltimore city shall be such as are prescribed by the sections of this article; and provided further, that when the said mayor and city council shall have by ordinance prescribed the powers and duties of the visitors of the jail of Baltimore city, then, and in that event, the operation of the sections of this article, from five hundred and seventy-one to six hundred, inclusive, shall cease, and the said sections, from five hundred and seventy-one to six hundred, inclusive, shall be *ipso facto* repealed.

Proviso.

Powers and duties of visitors.

Proviso.

Ordinance to be passed.

Effect of same.

Ibid, s. 2. Title to property.

2. All titles to property of any and every kind now held by the visitors of the jail of Baltimore city, shall be, and they are hereby transferred to and vested in the mayor and city council of Baltimore, to all intents and purposes, and all powers and privileges heretofore conferred upon the said visitors of the jail of Baltimore city, shall be and they are hereby conferred upon the mayor and city council aforesaid.

Powers and privileges.

Ibid, s. 3. Visitor's oath.

3. Each visitor so appointed shall, before he proceeds to act, take and subscribe before the mayor the oath of office prescribed in the sixth section of the first article of the constitution.[1]

[1] This act of 1868, c. 3, repeals sections 567, 568, 569, and 570, of art. 4 of P. L. L., and substitutes the above for sections 567, 568 and 569. The oath of office referred to is as follows:

I, ——, do swear, (or affirm,) that I will support the constitution of the United States, and that I will be faithful and bear true allegiance to the State of Maryland, and support the constitution and laws thereof; and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of —— according to the constitution and laws of this State.

4. Three visitors shall at any time form a quorum for the transaction of business. P. L. L., art. 4, sec. 571. Quorum.

5. They shall choose annually, at their first meeting in the month of April, or at some subsequent meeting, a president and secretary from among the members of the board. Ibid, sec. 572. President and Secretary.

6. The president shall preside at all meetings of the board; the secretary shall keep the minutes of their proceedings. Ibid, sec. 573. Duties.

7. They shall meet on the first Tuesday of every month, or at such other times as they may direct; special meetings may be called at any time by the president or any two members on giving three days' notice in writing to the members. Ibid, sec. 574. Time of meeting.

8. They shall have full power and authority as often as they may deem it necessary to visit the jail, and the prisoners confined therein; to make by-laws for the internal police and good government thereof, and for the preservation of the buildings and other property. Ibid, sec. 575. Power to make by-laws and visit jail.

9. They shall regulate and provide the diet of the prisoners, procure necessary bedding and clothing for their use; make such repairs, alterations and improvements in and about the jail as they may deem necessary, and provide medicines and attendance for such of the prisoners as are sick. Ibid, sec. 576. To provide for prisoners and repair jail.

10. They shall keep all persons confined in said jail by sentence of a court for offences punished by confinement therein at hard labor in some useful employment, and shall frame such regulations as shall be necessary to the industry, quiet and discipline of such persons, and shall have them kept separate from persons in confinement awaiting trial, or for other causes. Ibid, sec. 577. To keep criminals separate from persons awaiting trial. Labor.

11. They shall also require all vagrants or negroes confined in said jail to work and labor about the premises. Ibid, sec. 578. Vagrants and negroes to work

12. They may, with their consent, employ other persons confined therein in such work and labor in and about the premises as may be consistent with their safe keeping, and shall keep an account of the earnings of such persons, and shall, upon their discharge, allow them two-thirds of the net proceeds thereof, to be ascertained by the visitors. Ibid, sec. 579. May employ and pay others by consent.

Ibid, sec. 580. To keep accounts of expenses.

13. They shall keep regular books of accounts, in which the whole expenses of the jail, whether for supplies, salaries of officers, repairs or incidentals, shall be distinctly stated.

Ibid, sec. 581. Warden.

Duties.

14. They shall appoint a fit person as warden of the jail of Baltimore city, who shall take charge of the prison and prisoners therein, and exercise during his continuance in office the same powers and be subject to the same penalties and forfeitures, and responsible for escapes, in the same manner and to the same extent as the sheriffs of the respective counties, and shall perform such other duties as shall be required of him by said visitors.

Ibid, sec. 583. Pay and fees of warden.

15. He shall be entitled to collect and receive in his own name, but for the use of the visitors, all jail fees; and in case of dispute between the warden and any prisoner, or the master of any apprentice, in relation to the amount of fees demanded by the warden, which shall be the subject of contest before a justice of the peace for said city, either party against whom judgment shall be given, whatever may be the amount in dispute, may appeal to the Baltimore City Court.

Appeal.

Ibid, sec. 583. Bond of warden.

16. The said warden shall, before he enters upon the duties of his office, give bond to the State with at least two securities, to be approved by the visitors, in the penalty of ten thousand dollars, conditioned for the faithful performance of his duty as warden, and for the safe keeping of all such persons as shall be committed by legal authority to the jail of Baltimore city; which bond shall be filed and recorded in the Criminal Court of Baltimore.

Ibid, sec. 584. His oath.

17. He shall also take and subscribe an oath that he will duly and faithfully execute the duties and trusts, and exercise the powers committed to and vested in him as warden of the jail of Baltimore city.

Ibid, sec. 585. Visitors to prescribe number of assistants: warden to appoint and remove.

18. The visitors shall prescribe the number and duties of the assistants who may be necessary to be employed by said warden, but the warden shall have the appointment and removal of such assistants, subject to the approval of the visitors.

19. All commitments of prisoners to the jail of Baltimore city shall be directed to the warden of said jail, whose duty it shall be to receive the prisoners from the officers having them in charge. Ibid, sec. 586. Commitments to be directed to warden.

20. He shall conduct all prisoners in his custody to and from the courts, when the said courts shall direct him to do so.[1] Ibid, sec. 587. To conduct prisoners to and from court.

21. He shall account with the visitors for all sums of money which he may collect as jail fees for prisoners confined in the jail, or from any other source connected with the institution. Ibid, sec. 588. To account for jail fees.

22. The visitors shall allow such compensation to the warden and his assistants as they may think reasonable and proper. Ibid, sec. 589. His compensation.

23. They may, at their will and pleasure, remove said warden from office and appoint another in his stead. Ibid, sec. 590. May be removed by visitors.

24. They shall annually make out and lay before the mayor and city councils, a full statement of all the public money received by them from the register of the said city, or from any other source, and the manner in which it has been expended, with an estimate of what will be necessary for the following year, which estimate shall be levied on the property in said city and paid to the visitors. Ibid, sec. 591. Visitors to report annually to mayor and council expenses of jail.

25. No warden, or any person by him employed, shall keep a tavern for the sale of spirituous liquors within the said jail, or within one-eighth of a mile of the limits thereof; and if the warden or any person by him employed shall, either by themselves or others, dispose of, sell or retail, or be concerned with others in the disposal, sale or retailing of any spirituous liquors of any kind to any person or persons coming to said jail on a visit, or to any prisoner or prisoners confined therein, he shall forfeit and pay the sum of twenty dollars, to be recovered by indictment and applied to the use of the city. Ibid, sec. 592. Warden not to sell liquor. Penalty.

26. No cider, beer, wine, brandy, rum, whiskey, or other spirituous liquor shall be brought within the jail lot by any Ibid, sec. 593. No liquors to be brought into jail.

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1 See further under art. 13, p. 133, *ante*, secs. 20, 21 and 22.

warden or other person having charge thereof, or by any prisoner, visitor or any other person, except by order of the attending physician or physicians thereof, and except such small quantities as may be absolutely wanted to be consumed by the warden and his family and assistants.

Ibid, sec. 594. No persons except attorneys, &c. to visit prisoners.

27. No person except the attorney or attorneys of a prisoner shall be permitted to visit a prisoner or prisoners within said jail or lot, unless by special license from the warden, or some judge or justice, or other person legally authorized to give the same.

Ibid, sec. 595. Penalty against warden for bringing liquor into jail.

28. If any warden shall introduce, or suffer to be introduced, within the jail lot, knowing it to be done contrary to law, any such spirituous liquors, he shall forfeit and pay the sum of one hundred dollars for each and every offence, to be recovered by indictment, one-half to the informer and the other half to the use of said city.

Ibid, sec. 596. Penalty against assistant warden, &c. for bringing liquor into jail or admitting unauthorized persons.

29. If any assistant warden, or other person having charge of said prison or prison lot, shall introduce any such spirituous liquors, or suffer them to be introduced, knowing it to be done contrary to law; or shall admit any person or persons (with the exception of the attorney of a person confined in said prison, to enter said jail or lot without license as aforesaid, each and every of them so offending shall be suspended from his office, and be incapable of holding any office or charge within said prison or lot for the space of one year thereafter.

Ibid, sec. 597. Labor.

30. All persons convicted of offences in the Criminal Court of Baltimore, and who are sentenced to imprisonment in Baltimore city jail, shall be put to and required to labor during such confinement.

Ibid, sec. 598. Prisoners to be kept on prison fare.

31. All persons hereafter sentenced to be imprisoned in said jail for offences by the said court shall be kept on prison fare, and not be allowed any other food or drink, unless by the written direction of the physician of the jail.

Ibid, sec. 599. Who to visit condemned prisoners.

32. No admission of visitors shall be allowed to condemned prisoners during their confinement, except the official visitors

of the jail, ministers of the gospel; physicians and legal counsel.

33. Nothing contained in the last three preceding sections shall apply to prisoners in the said jail who are under sentence of death. Ibid, sec. 600. How prisoners under sentence of death to be treated.

34. All persons confined in the jail of Baltimore city for offences punished by confinement in said jail, shall, after conviction, be kept occupied at hard labor in some useful employment, and the visitors of the said jail shall frame such regulations as may be necessary to the industry, quiet and discipline of the persons confined in said jail who may have been convicted of any offences punishable as aforesaid by confinement, and ordered to be confined therein. P. L. L., art. 4, sec. 158. Convicts to be kept at hard labor. Regulations.

35. All persons confined in said jail under the provisions of the preceding section, shall be kept separate from such persons as are in confinement awaiting trial, or for other offences. Ibid, sec. 159. To be kept separate from persons awaiting trial, &c.

36. The warden of the jail of the the city of Baltimore shall prepare and send to the judge of the Criminal Court of Baltimore, on each and every Saturday, a full and complete list of the names of all persons who are committed to his custody, by the justices of the peace of said city, either as vagrants or in default of security to keep the peace; and the judge of the said court shall have full power to review the said commitment, and upon examination of the various cases so reported to him by the warden of the jail as aforesaid, he shall discharge or recommit the said parties for a term not to exceed six months, as in his discretion may be most conducive to the preservation of public peace and order. The justices of the peace of the city of Baltimore are hereby prohibited from charging costs in the cases above named, unless the parties are recommitted by order of the judge of said court.[1] 1862, c. 8. Warded to send list of vagrants to criminal court. Justices' costs

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See art. —, Vagrants, *post*.

ORDINANCE.

No. 45, May 16, '61.

Five visitors of the jail appointed.

Their duties.

1. There shall be annually appointed, in the month of February, as other city officers are appointed, five discreet persons, to be known as or called the Visitors of the Jail of Baltimore city, whose duties shall be such as are prescribed in sections, Statutes, of this article.[1]

ARTICLE XXIX.

JURORS.

STATUTES.

1. Judges of Supreme Bench to select list of jurors, and when: number list to contain.
2. Collector to file with clerk of Superior Court list of taxable males: pay of collector for so doing.
3. What clerks of courts to do after list is prepared: sheriff or his deputies to attend: their duties.
4. Penalty for frauds relating to drawing.
5. Sheriff to summon twenty-three men as grand jurors.
6. Twenty-five first in order on list to serve in Superior Court.
7. Court of Common Pleas and Baltimore City Court.
8. Criminal Court.
9. Names drawn to be entered into books: books to be certified by judges, and called jury books.
10. Where books to be deposited: sheriff to summon juries drawn for each court.
11. Duty of sheriff when juror drawn disqualified.
12. Petit jurors, how long to serve: how and for what to be excused: penalty for non-attendance.
13. Summoning talesmen: duty of sheriff.
14. When talesmen to be summoned from regular panels of other courts: in such case, so many regular panels to be exchanged: how long exchange to continue.
15. Jury lists, how revised and kept up: juror exempt for two years after service.
16. Special juries to be summoned from jury lists.
17. Penalty on sheriff.
18. Any two judges may act.
19. State's Attorney may challenge five jurors peremptorily.
20. Grand jury to visit jail.
21. Provisions construed: neglectful officers: proviso: penalty.

JURY IN CIRCUIT COURT.

22. When a jury may be summoned.

PAY OF JURORS.

23. Pay and mileage of jurors.

[1] The new jail was erected under the provisions of ordinances No. 42, May 23, '51, No. 20, Apl. 20, '58, No. 28, May 31, '58, No. 13, Feb. 4, '59, No. 17, Feb. 18, '59, No. 7, Mar. 26, '61.

ORDINANCES.

1. Clerks of courts to furnish names of jurors to register.
2. Certificate to be presented to register: register to pay amount.

STATUTES.

1. The judge of the Superior Court of Baltimore city, the judge of the Court of Common Pleas, the judge of the Baltimore City Court, the judge of the Circuit Court of Baltimore city, and the judge of the Criminal Court of Baltimore shall meet at such place in the city of Baltimore as the said judges shall appoint, on such day in the month of March in each and every year, as the said judges shall agree upon; and it shall be the duty of the said judges meeting as aforesaid, at such meeting, or at such adjourned meeting, as they shall hold for the purposes hereinafter mentioned, in the month of March of each and every year as aforesaid, to select the names of seven hundred and fifty persons, qualified under the law of this State, to serve as grand and petit jurors in said city.[1]

P. L. L., art. sec. 601; 1867, c. 401, s. 4. Judges of Supreme Bench to select list of jurors, and when: number list to contain.

2. In order to assist the said judges in making out the list of jurors aforesaid, the collector of taxes of the city of Baltimore shall, before the first day of February in each and every year, lodge with the clerk of the Superior Court of said

Ibid, sec. 602. Collector to file with clerk of superior court list of taxable males.

[1] Where there was no meeting of the judges, or a majority, or any two of them in March, 1866, or at any time afterwards, for the purpose of making the selection required by the above law, but one of the deputy clerks of the Superior Court formed the list from persons on the list of the former year, who had not served as jurors, he making up the requisite number from a list furnished by the city collector, and the list so made by him he presented, *seriatim* and separately to the judges in their respective court rooms, and without any very particular examination, it was approved and adopted by them *separately*, and without consultation with each other; and from such list a grand jury was selected.

It was held a fatal defect, and that no body of men assembled as these were, without (as the requirements of the jury law had not been complied with,) authority of law, have the right to act as a grand jury; and in this case the final judgment of conviction of the prisoner was reversed. To guard for the future against the fatal consequences of neglect, from any cause, to pursue the strict requirements of this jury law, the act of 1867, c. 267, sec. 21 of this article was passed. This last law has qualified the future construction of the jury law by expressly declaring the provisions thereof, shall be construed merely as directory. *Clare* v. *State*, 30 Md.

city, for the use of said judges, a certified list of all the taxable male inhabitants of the said city, setting out their names and places of residence, so far as the same may be ascertained; and the said collector shall receive for such service, a compensation to be fixed by said judges, and shall be paid as jurors are paid.

Pay of collector for so doing.

1865, c. 44.

What clerks of courts to do after list is prepared.

3. The said judges having prepared the said list, shall require the clerks of the several courts of Baltimore city, or a majority of them, to meet in such one of the court rooms of the said city, at such time as they shall appoint, not less than ten days before the beginning of the May term of the Superior Court of Baltimore city, and the names selected by the said judges shall be inscribed upon ballots, which shall be of equal size, color and appearance, and shall be closely folded, and shall be placed in a box prepared for that purpose by the clerks themselves. And the sheriff of Baltimore city, or such of his deputies as he shall designate, shall attend before the said clerks, and it shall be the duty of the said sheriff, or his deputy as aforesaid, in the presence of the said clerks and such other persons as may choose to attend in said court, to draw, one by one, all the ballots contained in the said box, and as the said ballots are drawn, the names appearing thereon, shall be duly recorded in the order in which they shall be drawn by the said clerks, or under their personal direction and inspection, by some person to be appointed by the judges aforesaid.

Sheriff or his deputies to attend.

Their duties.

1861, c. 51, ss. 2, 3.

Penalty for frauds relating to drawing.

4. Any officer, deputy, or person whatsoever, who shall fraudulently mark, or designate, or open, or leave open, or cause or knowingly permit to be marked or designated, or opened, or left open, any ballot or ballots for jurors, which shall be prepared for the purpose of being drawn under this article, or who by any fraudulent contrivance, device or collusion whatsoever, shall prepare, or arrange, or cause or knowingly permit to be prepared or arranged any ballot or ballots aforesaid, so that the same or any thereof may be known or recognized in the drawing thereof, or for the purpose of their being so known or recognized; and any

person or persons who shall in any way fraudulently or collusively deal, or conspire, or contrive to deal with the ballots aforesaid, or any of them, or the drawing thereof, or with the preparation or folding of said ballot or ballots, or with the wheel aforesaid, so that the fair operation and lawful and impartial execution of the provisions of this article, in regard to the selection of jurors in the city of Baltimore, shall be knowingly prevented or interfered with, or with intent to interfere with or prevent the same, or permit or allow the same to be interfered with or prevented, shall be guilty of felony, and upon conviction thereof, shall be sentenced to be confined in the penitentiary for a term of not less than one nor more than three years. Nothing in this section shall be held to affect the liability of any person or persons for any forfeiture imposed by section seventeen, hereinafter, of this article.

1864, c. 106. Sheriff to summon twenty-three men as grand jurors.

5. The sheriff of Baltimore city shall, before each term of the Criminal Court of Baltimore, summon twenty-three persons from the list prepared by the judges, to serve as grand jurors for the ensuing term of said court.

1864, c. 106. Twenty-five first in order on list to serve in superior court.

6. The twenty-five names first in order on the said list shall constitute the jurors for the Superior Court of Baltimore city, for the three weeks to ensue after the commencement of the next term of the said court.

P. L. L., art. 4, sec. 605; 1867, c. 401, s. 4. Court of common pleas and Baltimore city court.

7. The twenty-five names next in order on the said list, shall constitute and be the jurors for the Court of Common Pleas for the three weeks to ensue after the commencement of the next term of the said court; and so as to the Baltimore City Court.

Ibid, sec. 607. Criminal court.

8. The twenty-five names then next drawn on the said list shall constitute and be the jurors for the Criminal Court of Baltimore for the three weeks to ensue after the commencement of the next term of the said court.

Ibid, sec. 608. Names drawn to be entered into books. Books to be certified by judges and called jury books.

9. After all the names in the box are drawn, it shall be the duty of the said judges to cause the names of the said several panels and the names of the other persons drawn as aforesaid, to be entered in six several books, in the order in which

the said panels and the names as aforesaid were drawn as aforesaid; and the said books shall be certified by the said several judges to be true copies of each other; and shall be denominated jury books for Baltimore city.

Ibid, sec. 609. 1867, c. 401, s. 4. Where books to be deposited.

10. When the said jury books are prepared and certified, as directed in the foregoing section, it shall be the duty of the said judges, or a majority of them, to cause one of the said books to be deposited in the custody of the clerk of the Superior Court of Baltimore city; one in the custody of the clerk of the Court of Common Pleas; one in the custody of the clerk of the Baltimore City Court; one in the custody of the clerk of the Criminal Court of Baltimore; and one in the custody of the sheriff of Baltimore city; and one shall be retained by the said judges, or by such one of their number as they shall appoint, for the purpose of verifying the lists of persons so delivered as aforesaid to the clerk as aforesaid, or to the sheriff of Baltimore city; and when the said book is delivered to him—the said sheriff of Baltimore—he shall immediately summon the several jurors drawn for the several panels named in the said book, to serve in the court for which they have been respectively drawn, at such time as shall be designated by the court.

Sheriff to summon juries drawn for each court.

Ibid, sec. 610. Duty of sheriff when juror drawn disqualified.

11. If any of the jurors so set down on the lists as aforesaid shall be legally disabled or excused from attending, the sheriff, on being notified thereof, shall complete the said panel or panels in which jurors are needed, by summoning in the stead of such juror or jurors, the persons whose names are set down in the said jury book next after the regular panels as aforesaid; and he shall summon such person or persons in the order in which they are thereupon set down, and not otherwise.

Ibid, sec. 611. Petit jurors, how long to serve.

12. Every petit juror sworn upon any special panel shall continue to serve thereon until discharged by the court, notwithstanding the expiration of his term of three weeks aforesaid; but no one summoned as a juror shall be excused from service except in open court, on good cause shown to the

How and for what to be excused.

satisfaction of the court; and if any juror summoned, and not excused, shall fail to attend the said court until duly discharged, he shall be fined for the use of the said city, not less than twenty, nor more than two hundred dollars, to be recovered by attachment, or such other appropriate process as the said court may direct. Penalty for non-attendance.

13. If at any trial of any cause in any of the said several courts as aforesaid, tales *de circumstantibus* shall be ordered, it shall be the duty of the sheriff to summon as such talesmen, those who are entered in said book, and who are not upon the regular panels as aforesaid, and such talesmen shall be summoned and called to be sworn or affirmed on their *voir dire*, or otherwise, in the order in which their names are set down on the said jury book, unless the said sheriff, or his deputy in that behalf, shall swear that he has made true and diligent search for such persons as do not appear, and that they cannot be found; or unless, being summoned, such persons have failed to appear; in that event, such of the talesmen as have been properly summoned and have appeared, shall be called to be sworn in the order in which their said names are recorded in the jury book aforesaid, or whenever, in the Superior Court of Baltimore city, the Court of Common Pleas, or the Baltimore City Court, it shall be necessary to summon talesmen, the judges of the said courts respectively, instead of or in addition to resorting to the foregoing provisions of this section for the summoning of talesmen, may order the sheriff to summon as such talesmen, any of the jurymen in attendance upon either of the other of the said courts who may not then be engaged as part of any special panel. 1868, c. 175. Summoning talesmen. Duty of sheriff.

14. If it should so happen that the said lists of persons competent to act as jurors, other than the regular panels as aforesaid, should at any time be exhausted as talesmen, it shall also be competent for the sheriff to summon as talesmen, any of the regular panels in any of the other of said courts in Baltimore city, who may be at the time of such summons not engaged as part of any special panel in any of the said courts: P. L. L., art. 4, sec. 613. When talesmen to be summoned from regular panels of other courts. In such case, so many regular panels to be exchanged

How long exchange to continue.

but it is herein provided, that whenever any part of the regular panel of any court shall be by the sheriff as aforesaid summoned to attend in any other as talesmen, jurors of the regular panel of the court in which talesmen are required, or so many of them as shall be needed, shall be by the said sheriff notified to attend in the courts from which regular jurors have been withdrawn; and the said jurors shall attend accordingly in the said courts until the regular jurors of said court are discharged from the court in which they shall be required to serve as talesmen as aforesaid.

Ibid, sec. 614. Jury lists, how revised and kept up.

15. It shall be the duty of the judges aforesaid to assemble on the fourth Monday of the May term of the Superior Court of Baltimore as aforesaid, and thereafter from three weeks to three weeks during the said terms, and also ten days before the commencement of each of the regular terms of the Superior Court as aforesaid, during each year, and at such meetings, the said judges shall cause the said sheriff of Baltimore city to attend as in this law hereinbefore provided; and the said judges, or a majority of them, shall then cause the names of those who have served on the regular panels of the courts aforesaid to be stricken from the jury lists, and the said persons shall not be liable to serve again as jurors for the period of two years, reckoning the said two years from the said preceding second Monday in May, as aforesaid; and the said judges shall then add to the said jury list such number of names as shall make up the whole number of seven hundred and fifty names—the said additional names to be drawn by the sheriff, or his deputy, from a list thereof to be made by the judges, as provided in section two, and to be added to the prior list, and recorded in the order in which they shall be drawn; and then from the said whole number, the panels shall be taken for the Superior Court, Court of Common Pleas, City Court, and Criminal Court, in the manner heretofore provided in this law; and all the regulations prescribed by this law for the government of the said judges, and of the sheriff, or his deputy as aforesaid, in reference to jurors, shall apply to all grand or petit jurors to be thereafter selected and summoned

Juror exempt for two years after service.

for the said city during the year aforesaid; and the jury books hereinbefore directed to be prepared, shall be corrected and certified by the said judges as corrected, and be preserved as hereinbefore directed.

16. All special juries authorized by law to be summoned, shall be summoned by the sheriff of Baltimore city, from those whose names may be inscribed in the jury book as then revised. Ibid, sec. 615. Special juries to be summoned

17. If any sheriff of Baltimore city, or any deputy thereof, shall wilfully violate the provisions of this article relating to juries, the said sheriff shall forfeit the sum of one thousand dollars, which shall be recovered by civil action in the name of the State against the sheriff and the sureties on his bond, in that behalf; and one-half of the penalty shall be paid to the informer, who shall be a competent witness. Ibid, sec. 616. Penalty on sheriff.

18. Any two of the judges named in section 1 of this article may constitute a quorum at any meeting held under the provisions of this article, and may exercise all the powers hereby reposed in the said judges. Ibid, sec. 617. Any two judges may act.

19. In all criminal cases in which the person indicted has or may have the right of peremptory challenge, the State's attorney shall have the right to challenge peremptorily any number of jurors not exceeding five. Ibid, sec. 618. State's attorney may challenge five persons peremptorily.

20. The grand jury shall at each term of the court visit the jail and inquire into its condition, the manner in which it is kept and the treatment of the prisoners, and report the same to the court. P. G. L., art. 50, sec. 18. Grand jury to visit jail.

21. All the provisions of this article relating to the mode of drawing and summoning jurors, shall be construed as directory merely, and no indictment or presentment for any felony or misdemeanor shall be quashed, nor shall any judgment upon any indictment or presentment, whether after verdict, by confession or otherwise, be stayed, or reversed, nor shall any challenge to the array of jurors be allowed because of any failure by the judges, or the clerks, or the sheriff, to comply with the provision of law relating to the drawing of 1867, c. 269, s. 3. Provisions construed. Neglectful officers.

Proviso. jurors in the city of Baltimore; provided, nevertheless, that if any officer concerned in the drawing of said jurors shall wilfully neglect to perform any duty empowered upon him by Penalty. law, he shall be liable to indictment in the Criminal Court of Baltimore, and upon conviction shall be fined the sum of one thousand dollars.

JURY IN CIRCUIT COURT.

P. G. L., art. 29, sec. 58. When a jury may be summoned. 22. Whenever in any case instituted in the Circuit Court a jury is asked for and allowed, or is desired by the judge thereof, the judge shall issue an order to the sheriff of Baltimore city, requiring him to summon twenty jurors to attend the court, when proceedings shall be had in such case as is usual in such cases in equity.

PAY OF JURORS.

1865, c. 78. Pay and mileage of jurors. 23. Jurors shall receive two dollars and a half per day, for each and every day they shall attend the several courts of this State as jurors, and fifteen cents for each mile over five miles, for going to and returning from the court once in each term, to be paid by the counties or city respectively in which such courts are held.[1]

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[1] See P. G. L., art. 50, Juries.

In the case of *Pfaff* v. *Dimmling*, Supreme Bench, June, 1869, Dobbin, A. J., said:

The constitution of 1851, article 3, section 17, provided for the revision and codification of the laws of the State, and according to the provisions thereof Scott and McCullough were appointed commissioners to attend to the same. They reported to the legislature of 1860 two volumes, containing the Public General and Public Local Laws of the State as revised, &c. At that session an act was passed adopting those volumes as the law of the State, in lieu of all laws heretofore passed, and ordering the copies endorsed respectively by the secretary of the Senate and the clerk of the House, to be delivered to the clerk of the Court of Appeals, to be by him safely kept, except when directed by the general assembly to deliver one of the copies for the purpose of being reprinted.

At the same session, by act No. 236, March 10, 1860, Henry C. Mackall was appointed to superintend the printing of the Code, and to incorporate therein the acts of 1860, and was empowered to withdraw a copy, for the above purposes, from the clerk of the Court of Appeals.

This work Mr. Mackall did, and the result was the two volumes now in general use, and known as the Code. At the session of 1860, an act had been passed

ORDINANCE.

No. 22, Mar. 24, '66.

Clerks of courts to furnish names of jurors to register.

1. The clerks of the several courts of this city are requested to furnish to the register of this city, as soon as they can conveniently do so, after the discharge of the jurors, who have served as such in any of the said courts, a list of the names of such jurors, showing the number of days each juror has attended as a juror, the term in which said service was rendered, and the amount due each juror.

Ibid, s. 2.

Certificate to be presented to rrgister.

Register to pay amount due.

2. On the presentation of a certificate from any of the clerks of the several courts of this city by any juror, or his legal representative, to the register of the city for payment after the said register shall have received from the clerk of said court the list of jurors as provided in the preceding section, and it shall appear on examination of said list so received as aforesaid, that the certificate presented for payment is correct, the said register is hereby authorized and directed to pay such juror, or his legal representative, the amount due as shown by said certificate.[1]

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to rectify certain specified errors therein, (1860, c. 246,) but no legislation was had adopting Mr. Mackall's work when finished. It appears, however, that by reference to the volumes held by the clerk of the Court of Appeals, that through some oversight, two sections of the Public Local Laws of the city of Baltimore, article four, numbered in the original Code, 584 and 585, were omitted in Mr. Mackall's work. These sections provide as follows:

584. All citizens of the United States residing in the city of Baltimore, and between the ages of 21 and 65, shall be bound when summoned to serve on juries in the courts of said city, except those who are infirm in body or in mind, ministers of the gospel, practitioners of law, practitioners of medicine, teachers of day schools, officers of the general government, civil officers of the State, executive officers of the said city, and members of the general assembly, and of the city council, when severally in session.

585. The court to which any juror may be summoned, on application, may excuse such juror if suffering under family afflictions, or under a necessity of speedily going abroad, but pressure of engagements, whether of business or of pleasure, is not to be deemed a sufficient justification for being relieved from jury service.

Neither of the sections apply to juries in the counties where the limitations of age are between 25 and 70, and fewer exemptions are allowed.

[1] The above ordinance recites the act of 1865, c. 78, sec. 23, p. 454, *ante*.

ARTICLE XXX.

LICENSES.

STATUTES.

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45. Clerk of Common Pleas to receive license money: list of names: solicitor to enforce payment.

STATUTES.

BILLIARDS.

1865, c. 56.

License for billiard tables.

1. Any person or persons proposing to keep or offer for use a billiard table or tables, shall before doing so, apply to the clerk of the court authorized to issue licenses, for a license for each and every table kept or exhibited for use by him or them, and shall pay for each and every license to keep one billiard table, the sum of one hundred dollars, or if he or they propose to keep or exhibit for use, more billliard tables than one, there shall be paid by him or them for each and every such billiard table more than one, a license of fifty dollars.[1]

[1] An incorporated club, owning and keeping a billiard table, at which members and strangers play at a charge of six and a quarter cents per game, to be paid by the members only, which charge, however, does not defray the expense of keeping the table, is liable to the above tax. *The Germania* v. *The State*, 7 Md., 1.

A license required to be obtained by the payment of money is a tax. *Lucas* v. *Lottery Commissioners*, 11 G. & J., 490, *McEvoy* v. *Mayor, &c., Balt.*, 3 H. & J., 193

1835, c. 56. Penalty.

2. Any person or persons keeping or exhibiting for use a billiard table or tables without first obtaining a license therefor, shall for each and every table so kept or exhibited, forfeit and pay the sum of five hundred dollars, one-half to the informer and the other half to the State.

P. G. L., art. 56. sec. 8. Right of municipal corporations to impose further tax.

3. Nothing herein contained shall impair the rights of the corporations of the cities of Baltimore, Annapolis, Frederick, or the commissioners of any incorporated town in this State, to impose a further tax on billiard tables.

WOOD.

1862, c, 173. Wood hucksters to be licensed. Costs.

4. The clerk of the Court of Common Pleas may issue licenses to retail and huckster wood, on any of the wharves in the city of Baltimore, upon the payment of one hundred dollars, for the use of the State.

P. L. L., art. 4, sec. 948. One license not to include more than two persons.

5. Not more than two persons shall be included in any one license, and the names of both shall be expressed therein, and such license shall be annually renewed.

1862, c. 173. Penalty for retailing without license.

6. No person shall retail or huckster wood on any wharf in the city of Baltimore, under a common trader's license, or without having first obtained a license for said purpose, as provided in the preceding sections; and any person so offending shall be fined one hundred dollars, one-half for the use of the State, and the other half for the use of the person who shall prosecute for the same.

P. L. L., art. 4, sec. 950. Masters and owners of vessels excepted.

7. Nothing contained in the preceding sections shall prevent masters and owners of vessels from selling or retailing wood without a license.[1]

NON-RESIDENT TRADERS.

1868, c. 413. Non-permanent residents not to sell without license.

8. No person not being a permanent resident in this State, shall sell, offer for sale, or expose for sale, within the limits of the city of Baltimore, any goods, wares or merchandize whatever, other than agricultural products, and articles manu-

[1] See further under Inspections, Wood, *ante*.

factured in the State of Maryland, within the limits of the said city, 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.

1868, c. 413. License, how issued.

9. Such license shall be issued to the person or co-partnership applying for the same, on the payment of three hundred dollars, and shall run one year from date.

1868, c. 413. Non residents not to sell under name or in stores, &c., of licensees.

10. No person, whether a resident or not of the city of Baltimore, and licensed to sell therein, shall suffer or permit any person not a permanent resident of the State of Maryland, or the agent or representative of any person or persons not residents of the State of Maryland, and not in his regular employ or service, to sell any goods, wares or merchandise by sample, card or other specimen, or by written, printed or trade list, under his name or the name of his firm or partnership, or at the store, counting room or warehouse in his occupation, or used at his place of business.

1868, c. 413. Penalty.

11. Any person offending against either of the last three preceding sections, shall be liable to indictment, and upon conviction, shall be fined not less than four hundred dollars, nor more than six hundred dollars, for each offence; one-fourth to the informer, and the other three-fourths to the public school fund of the State; and any and all informers shall be compelled to appear and prosecute any and all violators of this article, or shall be subject to a fine or imprisonment, or both, in the discretion of the court.[1]

PAWNBROKERS.

P. L. L., art. 4, sec. 27. Licensing and regulating pawnbrokers.

12. The mayor and city council have power to pass all ordinances to provide for the licensing and regulating pawnbrokers within the city of Baltimore.

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[1] Scott, C. J., Supreme Bench, decided that this act is not in violation of the Constitution of the United States. *Hab. corp. in re Drescher.* See *Brown* v. *State of Md*, 12 Wheat.; 5 How. 574; 4 Wash. C. C. R., 378.

THEATRICAL AND PUBLIC AMUSEMENTS.

P. L. L., art. 4, sec. 906. Licensing and regulating theatrical, &c., amusements.

13. The mayor and city council have power to provide for licensing, regulating or restraining theatrical or other public amusements within the city of Baltimore.[1]

DUTY OF SHERIFF.

1866, c. 151. Alphabetical list to be made by sheriff of Baltimore.

14. It shall be the duty of the sheriff of Baltimore city, annually, in the month of April, to make or cause to be made, an alphabetical list of the names of all the persons or bodies corporate or politic, in each ward of the city of Baltimore, who shall be exercising or pursuing any business or be doing any act or thing or shall be in the use or occupation of any house or place for any purpose for which a license is made necessary by article 56 of the Code of Public General Laws, and to return such list to the grand jury of said city at as early a period as practicable, after the first day of May then next ensuing; and the said sheriff shall within the first week of the month of April, cause a notice to be inserted in the daily papers of the city, cautioning all persons and bodies corporate or politic, whom it may concern, to obtain a license or renew the same on or before the first day of May then next ensuing; and said sheriff shall be entitled to and receive twenty-five cents for every license obtained by any person, whose name shall be contained in the list or lists so returned by him, to be paid by the party applying for each license; but the failure of said sheriff to give the notice herein directed, shall not excuse any neglect to obtain a license, as required by the public general laws.

To be returned to grand jury.

Notice to be published.

Sheriff's fees.

ORDINANCES.

AMUSEMENTS.

No. 36, s. 5, R. O. No. 10, Apl. 9, '67; No 27, Apl. 5, '66: No. 46, July 2, '60. Penalty for keeping unlicensed billiard tables, &c.

1. No billiard table, rondo table, or bagatelle table shall be erected, set up, kept, or in any respect whatever used for the purpose of either gaming or entertainment within the city, without a license for that purpose previously obtained from

[1] See Theatrical Exhibitions, *post*.

the mayor, under the seal of the corporation, under a penalty not exceeding twenty dollars for each and every day that such billiard table, rondo table, or bagatelle table may have been set up, kept or erected without license; and every license granted as aforesaid shall be expressed to be only for the term of one year from the date thereof; and for every license for the keeping of a billiard table, rondo table or bagatelle table that shall or may be granted under this ordinance, the person obtaining the same shall forthwith pay or secure to be paid to the comptroller, for the use of the corporation, the sum of twenty-five dollars for each billiard table, twenty-five dollars for each rondo table, and twenty-five dollars for each bagatelle table, which shall be in lieu of every other tax imposed upon such tables by the corporation.

Terms of license.

Tax.

No. 36. s. 6, R.O.

2. Before any such license shall be granted, the person or persons applying for the same shall give bond to the mayor and city council of Baltimore, in the sum of three hundred dollars in the case of billiard tables, and one hundred dollars in the case of bagatelle tables, with security to be approved by the mayor, conditioned for the allowing to be played upon such table such game or games only as are or shall be permitted by the ordinances of the city, and also for the absolute prohibition of every other game or games whatever; and the mayor shall or may when thereto required, transfer or assign such license for the residue of the term for which it may have been granted; provided, he shall consider the proposed assignee to be a fit person to have such license, who shall also give bond as aforesaid; and if the mayor shall, by proper and competent testimony, be satisfied that any billiard table, or bagatelle table license as aforesaid, shall be used or employed contrary to the ordinances of the city, he shall thereupon have the right and authority to revoke such license; and the person licensed to keep such table shall, moreover, be liable to such fine or fines as this or any other ordinance of this city imposes on such offence.

Persons applying for license to give bond.

Mayor may transfer license.

Proviso.

Ibid, s. 7.

3. Every game or games played upon billiard tables shall be deemed and considered unlawful, and are hereby prohib-

What games at billiards are lawful.

ited, except only the game played with two balls, the game played with three balls, the game played with four balls, and the game commonly called pool, such being the usual games of billiards.

May 10, '69. Minors not to be permitted to play at billiards, &c.

4. It shall not be lawful for any person or persons who may have a permit or license to erect or keep a billiard saloon, or billiard table, as mentioned in the preceding sections, to allow any minor to play at any game in said saloon, or on any billiard table, under a penalty of ten dollars for the first offence, and ninety dollars for every subsequent offence.

No. 36, s. 8, R.O. Nine and ten pin alleys to be licensed.

5. If any person or persons shall erect, set up, keep, maintain, or in any respect whatever use for amusement or entertainment within the city, any bowling saloon, bowling alley, nine or ten pin alley, or any other device or structure, in or upon which one or more pins are set up, for the purpose of casting, throwing, pushing or rolling against such pin or pins, one or more balls, or other missiles, without having obtained a license therefor, for which license there shall be annually paid, if said structure be located within the limits of direct taxation, the sum of fifty dollars, and out of the limits of direct taxation, twenty-five dollars, such person or persons shall forfeit and pay a penalty of twenty dollars for each and every day he, she or they may so offend.

Cost of license.

Penalty.

Ibid, s. 9. Assent for same required.

6. No license shall be granted to any person or persons applying to open a saloon, alley or structure, under the provisions of the preceding section, unless said applicant or applicants shall obtain the assent, in writing, of a majority of the property holders in the immediate square where said alley is to be located; provided, that this section shall not apply to any saloon, alley or structure which has been heretofore licensed and never discontinued.

Proviso.

Ibid, s. 10. No. 14, Mar. 5, '66. Not to be used after 11½ o'cl'k at night.

7. If any proprietor or proprietors of any such bowling saloon, bowling alley, device or structure, shall suffer or allow any person or persons to play upon or use, in any manner whatever, such alley, device or structure, after half-past eleven

o'clock at night, and before sunrise in the morning, he, she or they, as the case may be, shall forfeit and pay two dollars for each and every such offence.

8. It shall be unlawful for any person or persons, who may have a permit or license, to erect or keep any such saloon, alley or other device or structure, as mentioned in section five, to allow any minor to play at any game, under the penalty of ten dollars for the first offence, and twenty dollars for every subsequent offence.[1] Ibid, s. 11. Minors not to be permitted to play. Penalty.

9. It shall not be lawful for any person or persons to keep a shuffle board in the city, unless he, she or they shall first obtain from the mayor a license therefor, and for every such license there shall be paid to the comptroller the sum of twenty dollars; and if any person or persons shall keep a shuffle board in violation of this section, he, she or they so offending, shall forfeit and pay the sum of one dollar for each and every day.[2] Ibid, s. 12. Shuffle boards to be licensed. Tax. Penalty.

10. No person or persons within the limits of the city, shall act, exhibit, play, or perform any play, farce, interlude, show, opera or other theatrical or dramatical performance, entertainment or show, or public exhibition, for gain, without a license for that purpose had and obtained from the mayor, under the seal of the city, under the penalty of twenty dollars for each and every offence; which said license shall express for what it is granted and the time it is to continue; and the following tax or fine shall be imposed and laid upon each license granted as aforesaid, which tax or fine shall be paid, or secured to be paid to the comptroller of the city on the granting of such license, as follows, to wit: for circus or feats of horsemanship in a building permanently erected for that purpose, three dollars for each performance; for circus or feats of horsemanship performed under a covering of canvass or any other material temporarily erected for that pur- No. 37, s. 1. R.O. Theatrical performances to be licensed. Penalty. Tax for theatrical exhibitions. For circus.

[1] See further as to Licenses, under Auctions, Carriages, Horses, Boats and Scows, Comptroller, Health, Inspections, Weights and Measures *ante*, and Markets, *post*.

[2] See Gaming, *ante*, and Sabbath-breaking, *post*,

For rope dancing, &c. For live animals. For other exhibitions.

pose, ten dollars for each performance; for rope or wire dancing, or puppet shows fifteen dollars for each week; for exhibitions of living animals, five dollars for each day or night of exhibition; for all other public exhibitions for gain, five dollars per week.

Ibid, s. 2. Penalty for performing without license.

11. It shall be the duty of every proprietor of any theatre or museum, before they permit any person or persons whatsoever to use such theatre or museum for the purpose of acting, playing or performing any play, farce, interlude, opera or other theatrical or dramatic performance, or any scene, selection or portion of any play, farce or drama of any description for gain, to obtain from the mayor the license required by this ordinance, either in their own names or in those of the managers of such performance, under a penalty of twenty dollars.

No. 10, Feb. 26, '64. Payment in lieu of license.

12. The owner or lessees of any hall or theatre, on the payment to the comptroller of three hundred dollars, shall have the occupants of his or their hall or theatre exempted from license for one year.

No. 19, Mar. 19, '64. Balls.

13. It shall not be lawful for any person or persons to hold a ball where an admission fee is charged, without first obtaining from the comptroller of the city, a license or permit so to do, under a penalty of not less than ten nor more than twenty dollars.

Penalty.

No. 10, Feb. 26, '64. Licenses for balls.

14. A tax or license for all balls shall be levied as follows: the tax or license for all balls shall be one dollar per day or night when the admission fee does not exceed twenty-five cents; three dollars per day or night when it exceeds twenty-five cents but is not over fifty cents; five dollars per day or night when it exceeds fifty cents but is not over one dollar, and ten dollars per day or night when it exceeds one dollar, and on all fancy, masked, or rag balls, a tax of ten dollars per day or night when an admission fee is charged.

No, 19, Mar. 19, '64; No. 10, Feb. 26, '64. Fines and penalties.

15. The fines imposed by section 13 shall be collectable as other fines and forfeitures are collectable; provided, however, that any person will be exempt from the said penalty

if the license be paid the mayor's detective, on application from that officer for the same; and the said officer is empowered to collect all fines and licenses imposed for theatrical and other public amusements. Mayor's detective.

16. The tax or license for musical parties shall be one dollar per night, when the admission fee does not exceed twenty-five cents, and three dollars per night when it exceeds twenty-five cents, but not over fifty cents, and five dollars per night when it exceeds fifty cents. But the mayor is authorized to grant, free of expense, all applications for license for concerts or performances of any kind, where the proceeds are intended for charitable purposes. No. 37, s. 3, R.O. Musical parties regulated. Concerts &c. for charitable purposes.

17. It shall not be lawful for any person or persons to destroy, tear, or otherwise deface any bill (posted in such places as may be permitted) descriptive of any performance paying a license to the city for permission to hold such exhibition; and any person or persons violating the provisions of this section, shall forfeit and pay, for each and every offence, the sum of two dollars. Ibid, s. 4. Penalty for defacing bills descriptive of performance

18. The mayor shall have full power and authority to refuse to grant licenses under this ordinance, and also have full power and authority to revoke any license granted by virtue of this ordinance, should he think proper so to do. Ibid, s. 6. Mayor authorized to refuse or revoke licenses.

19. Whenever the city solicitor shall be notified of any violation of the provisions of this ordinance, it shall be his duty immediately to institute legal proceedings against the offender or offenders, to recover from him, her or them, the penalty or penalties prescribed by this ordinance. Ibid, s. 7. City solicitor to institute proceedings

20. All fines and penalties imposed by this ordinance shall be one-half to the informer, and the other half for the use of the city.[1] No. 36, s. 17, No. 37, s. 8, R.O. Fines.

[1] By ordinance No. 89, Sept. 26, '60, William Bond and others are granted permission, with the approbation of the mayor first had and obtained, to give exhibitions of fire works on occasions of political mass meetings, at the Monument Square or elsewhere, when held within the limits of the city, and also upon

DOGS.

No. 64, s. 1, R. O. Dogs not to go at large without licensed number.

21. No dog or bitch shall be permitted to run at large within the limits of the city of Baltimore, unless the said dog or bitch shall have a collar about his or her neck, to which shall be attached a licensed number, to be regularly furnished by the comptroller of the city, who is hereby required to have the same prepared.

Ibid, s. 2. Amount of license.

22. All owners of dogs shall pay to the comptroller of the city, annually, the sum of two dollars and fifty cents for every dog, and the sum of ten dollars for every bitch belonging to them; provided, they intend to let the same run at large; and the evidence of the payment of the said tax shall be a receipt of the register for the same, and the number attached to the collar of the dog or bitch, which number shall be so arranged as to designate which are dogs' or bitches' licenses; and if any dog or bitch be found to be improperly or falsely numbered, the owner or owners of the said dog or bitch shall be liable to a fine of ten dollars, to be recovered as are all fines under the corporation.

Penalty on owners.

Ibid, s. 3. Persons may be appointed to destroy dogs.

23. It shall be the duty of the mayor specially to authorize, by commission, a suitable person or persons to seize or kill all dogs running at large unless licensed so to do, as provided for by this ordinance; and such person or persons so authorized shall convey all dogs so killed or seized to either of the police stations—the officer in charge of either of which stations, shall count the number of dogs so killed, cause the ears of the same to be taken off, or the animal in some other way to be marked, so as to prevent a return of the same by the person or persons so authorized to kill said dogs, and thereupon, and after being satisfied that said animals have been buried, or in some other way conveyed beyond the city limits, so as not to become a nuisance, shall give a cer-

Dogs destroyed how to be disposed of.

any other occasion upon which the citizens of Baltimore may assemble in public meeting and require said exhibitions; provided, however, that the privileges herein granted shall be limited to the special occasions above mentioned. See Theatrical Exhibitions, *post*.

tificate of the same, to be sworn to before one of the police justices of the peace, by the person so authorized as aforesaid, and such certificate so sworn to, shall entitle the person to whom such certificate shall be given, to the sum of fifty cents for every dog so killed, to be paid by the register. Compensation.

24. If any dog or bitch be found running at large between the first day of June and the first day of October, in each and every year, with a collar with licensed number thereto attached, as required by the preceding sections 21 and 22, and having the name and residence of the owner marked upon it, it shall be caught and removed to some suitable place to be provided for the purpose, and kept there until called for; provided, however, that if such dog or bitch shall not be claimed within forty-eight hours after being confined, it shall be killed, as provided for in the preceding section; and provided further, that the owner of such dog or bitch claiming the same, shall first pay to the register, for the use of the city, a fine of five dollars, and the sum of two dollars to the officer catching and confining such dog or bitch, to cover the expense of keeping the same. Ibid, s. 4. Dogs running at large during certain months, how disposed of. Proviso. Further proviso

25. Every animal of the dog kind licensed under this ordinance, shall be muzzled when required by proclamation of the mayor, when running at large; and if any such licensed dog or bitch shall be found running at large without a proper muzzle, the owner or owners thereof shall be fined the sum of two dollars, to be collected as all other city fines are collected, to be paid into the city treasury. Ibid, s. 5. Licensed dogs to be muzzled. Penalty.

26. If any person or persons, other than the owner of any dog or bitch, shall remove therefrom the licensed collar, or number, or muzzle, as aforesaid, such person or persons shall be liable to a fine of not less than two nor more than five dollars, for every such offence; the same to be collected as all other city fines are collected, and to be paid into the city treasury. Ibid, s. 6. Penalty for removing a licensed collar or muzzle.

27. Except when the duties of the mayor and comptroller are herein particularly specified, the execution of this ordinance shall be put in especial charge of the marshal of police. Ibid, s. 7. Execution of ordinance.

Ibid, s. 8.
Powers of mayor when complaints are made against troublesome dogs.

28. On complaint being made to the mayor of any dog or bitch within the city, which shall by barking, biting, howling or in any other way or manner, disturb the quiet of any person or persons whomsoever, the mayor, on being satisfied of the truth of such complainant, shall direct a police officer to give notice thereof to the person or persons keeping or permitting such dog or bitch to be kept or to remain in his or her house, or on his or her premises; and in case such person or persons shall, for the space of one day after such notice, neglect to cause such dog or bitch to be destroyed or removed, so as to prevent the disturbance, he shall forfeit and pay a sum not exceeding five dollars for every day which shall elapse until such dog or bitch be removed or destroyed as aforesaid.

Penalty.

Ibid, s. 9.
Poisoned meat &c. not to be thrown in streets.

29. No poisoned meat or any poisonous substance shall be cast into any of the streets, lanes or alleys of the city for the purpose of destroying dogs; and any person or persons violating the provisions of this section shall, on conviction, be subject to a fine of ten dollars.

Ibid, s. 10: Res. No. 97, June 11, '58, No. 189, July 26, '61, No. 94, July 14, '62, No. 118, July 24, '62, No. 108, June 10, '63. No. 118, June 28, '65, No. 269, June 8, '67.
Appropriation.

30. The sum of five hundred dollars is hereby annually placed at the disposal of the mayor to carry out the provisions of this ordinance, to be taken out of any money in the treasury not otherwise appropriated.

PAWNBROKERS.

No. 38, s. 1, R.O. No, 64, Oct. 2. '67.
Mayor to grant license.

31. The mayor is hereby authorized to grant licenses, under the corporate seal, to such person or persons as shall produce to him satisfactory evidence of his, her or their good character, to exercise or carry on the trade or business of pawnbrokers, which license shall designate the house in which such person or persons shall respectively be licensed to carry on the said trade or business; and each person receiving the said license, shall pay therefor the sum of two hundred dollars, and the license granted, as aforesaid, shall continue for the term of one year from the date thereof, and may be renewed on application to the mayor each and every year, upon the payment of the same sum.

License.

Term.

No. 64, s. 1, Oct. 2, 67. No. 38, s. 3, R. O.
Who may be pawnbrokers, and where.

32. No person shall use, exercise or carry on the trade or business of a pawnbroker in the city, without having such license as aforesaid, nor in any other house than the one designated in the said license, unless in case of removal, the comptroller shall, on application, endorse on said license the house to which the party shall have removed.

No. 38, s. 2. R. O.
Bond.

33. Every person so licensed as aforesaid shall, at the time of receiving such license, enter into an obligation to the mayor and city council of Baltimore, with good and sufficient sureties, to be approved by the mayor and the presidents of both branches of the city council, or a majority of them, in the penal sum of five hundred dollars, conditioned for the faithful observance of this ordinance and such other ordinances as may be passed on this subject.

No. 64, s. 2, Oct. 2, '67.
Powers of pawnbrokers.

34. Each and every pawnbroker licensed as aforesaid, shall be capable of receiving from any person or persons, (except a minor or apprentice, knowing or having reason to believe him to be such,) bodies corporate or politic, any deposit of merchandise of every description, as collateral security for such amounts thereon to be advanced by them, as they may deem proper and judicious, and to hold and retain the same during such time as may be agreed on between the party or parties depositing the same and the said pawnbrokers, and to charge for such advances, interest at the now established legal rate, and an additional charge as hereinafter specified, appropriate to the nature of the deposit, and the proper storage, removal and care of the same, and shall give to the party or parties so depositing, a certificate specifying the sum advanced, the date of deposit, the article or articles deposited, the amount of charge, the time for which such deposit shall be kept, as well as the name of the depositor, and his, her or their place of business, and if none, of abode.

Certificate.

Ibid, s. 3.
Deposits.

35. The article so deposited may, and if so agreed, shall be held by said pawnbroker six months, to be computed from the date of certificate as aforesaid, and if not then redeemed, or by contract the certificate thereof be renewed, it shall and

may be lawful for the said pawnbroker then to proceed to have such deposit sold, on first giving ten days notice in a newspaper published in said city, of the time, place and mode

Sale. of sale for cash and at public sale, which shall be effected by an agent by said pawnbroker to be designated; whereat it shall and may be lawful for the pawnbroker, when by him deemed essential for self-protection, to be a competitor, and

Account. upon such sale being made, an account thereof, sworn to by the agent effecting the same as in all respects fair and *bona fide*, shall be rendered to and kept by said pawnbroker, and a copy thereof shall be delivered on reasonable demand to the depositor of the matter so sold, whereof the proceeds shall be applied: first, to the payment of all expenses usual and incident to such sale, inclusive of any tax that thereon may be chargeable legally; secondly, to the legal interest and charges hereby authorized on advance and deposit as aforesaid and as herein specified; thirdly, to reimbursing to the pawnbroker the principal advanced, any deficiency wherein shall be a valid claim against such depositor; and any surplus shall be payable and paid to said depositor, or the party thereto legally entitled, if demanded at any time within twelve months from the day of such sale.

Ibid, s. 4. Charges. 36. It shall be lawful for the said pawnbroker, in view and by reason of the necessity of extensive storage, labor incident thereto, porterage, insurance and other expenses inseparable from the nature of the business hereby authorized, as affording a desirable and advantageous facility to the commercial and other classes of society, to charge therefor in addition to interest, at a reasonable rate, in no case to exceed two cents on the dollar each month, to be computed on the principal advanced as aforesaid, and shall cause to be kept in

Books. suitable books therefor, to be provided by said pawnbroker, an accurate account of each transaction authorized by this ordinance, and all the business and affairs of said pawnbroker shall be subject at all times to inspection of such agent or officer of Baltimore city, or of such committee as for that

purpose may be designated by the mayor and city council of Baltimore.

No. 38, s. 8, R. O. Form of action on bond.

37. If any person or persons shall sustain any injury or damage from any act or default of a pawnbroker, contrary to the tenor of his obligation as aforesaid, such person or persons may institute an action in any court having jurisdiction, for his, her or their use or benefit, in the name of the mayor and city council of Baltimore, upon the obligation given as aforesaid, in which action he, she or they shall recover judgment for the amount of the damages sustained.

No. 38, s. 10, R. O. Duty of register and city officers.

38. It shall be the duty of the register of the city to advertise, quarter yearly, in one or more of the public papers, the names of the several persons within the city, who have been duly licensed as pawnbrokers; and it shall be the duty of the officers of the city to inform against all persons offending against this ordinance.

No. 38, s. 11, R. O. Not to sell spirituous liquors. Mayor may revoke license.

39. No license as a pawnbroker shall be granted to any person who has an ordinary license, or license for the retailing of spirituous liquors; and any license to any pawnbroker, granted as aforesaid, may be revoked or annulled by the mayor, if there should appear to him sufficient cause for so doing.

Ibid, s. 9. Fines and penalties.

40. Any person offending against any or either of the aforegoing provisions shall forfeit a sum not exceeding fifty dollars for each and every offence: and any person who shall receive any pledge on which he shall advance money and take a receipt for a larger sum than he actually advances shall forfeit a sum not less than two hundred nor more than three hundred dollars for each and every offence.

SELLING IN STREETS.

No. 33, s. 23, R. O. Mayor authorized to grant licenses to sell certain articles on footways.

41. The mayor is hereby authorized and empowered to grant licenses to as many poor persons as to him may appear proper, to permit them to keep tables or baskets on the footways across the gutters of the streets of the city, with the

consent of the occupiers of the houses before which such tables or baskets may be placed, for the purpose of exposing for sale, fruits, cakes, nuts, and other articles that it has heretofore been customary for persons of that description to sell, and any person keeping such table without license, shall forfeit and pay one dollar for every day the table may be so kept.

Ibid, s. 41. Oranges, &c. not to be sold without license.

42. It shall not be lawful for any person or persons to sell or offer for sale in any of the streets, lanes, alleys or highways of the city, any oranges, lemons or limes, without having previously obtained from the comptroller of the city a license, for which each person shall pay annually the sum of two dollars, and every offender against the provisions of this section shall forfeit and pay a sum not exceeding two dollars for each and every offence.

Penalty.

Ibid, s. 42. Extent of license.

43. No license granted under the preceding section shall authorize the sale of oranges, lemons or limes by more than one individual; and all sales under such license shall be made by the person named therein, and not by any agent or other person, and no person so licensed shall sell or offer for sale any fruit without having his or her license about his or her person, and every offender against any of the provisions of this section shall forfeit and pay the sum of ten dollars.

Penalty.

No. 35, May 2, '62. Notice to be given.

44. But the person or persons aforesaid shall not be liable for the fines and penalties imposed by the preceding two sections, unless a notice has been given to the person or persons so offending, and the necessary time has been allowed for a compliance with the requirements of said sections; provided, however, that the provisions of this section shall not be applicable to any one who may commit the same offence a second time, or fail to comply with the requirements after the said notice has been given, or where the offence was knowingly or wilfully committed.

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TAVERN LICENSES.

No. 38, May 2, 61. Clerk of Common Pleas court to receive license money.

45. The clerk of the Court of Common Pleas of the city of Baltimore is hereby authorized and required to demand

and receive for the use of the city of Baltimore, the tax of five pounds, Maryland currency, on all tavern licenses, including all licenses under which authority is or may be given to sell liquors in small quantities to be drunk on the spot, and the tax of four dollars on licenses which may be granted for jail purposes; and the said clerk as aforesaid is requested to keep a list of the names of all persons who may pay the said tax of five pounds, or of four dollars, and also a list of the names of those persons who may refuse to pay the same, and furnish such lists to the comptroller of the city. The city solicitor shall take all necessary legal and proper proceedings to enforce the payment of the said tax of five pounds currency and four dollars.[1]

List of names.

Solicitor to enforce payment.

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[1] The act of 1782, c. 17, provided, that among other taxes therein enumerated to be levied upon the inhabitants of Baltimore town, towards paving, cleansing, and keeping in repair the streets, lanes and alleys, and for mending, building, and keeping in repair the bridges within the said town, there should be levied an additional tax of five pounds annually on tavern licenses.

The act of 1827, c. 117, s. 2, among other provisions enacted, that the licensees therein named should pay to the clerk of the then Baltimore City Court a further sum of four dollars for every license for sale of spirituous or fermented liquors, the said further sum to be applied to the payment of the expenses of the jail of the city and county of Baltimore, as far as the same were chargeable to and to be borne by the city of Baltimore. *Quære.*—Whether the above acts and the ordinance of '61 are in force, the acts having been omitted from the Code in 1860. The above provisions should be re-enacted by the legislature.

It was held before the adoption of the Code that it was not the duty of the clerk of the Court of Common Pleas to collect or receive for the mayor and city council of Baltimore the tax on tavern licenses imposed by 1785, c. 17, and his official bond, given by him as clerk, was not responsible for any sums he might have received on account of such tax. It was his duty to collect the tax called jail fees, imposed by 1827, c. 117, s. 2, and his official bond was responsible for any sums he might have received on account of such tax, and the mayor and city council were the proper persons to sue his bond therefor, and not the visitors of the jail of Baltimore city and county, incorporated by 1831, c. 58, [P. L. L., art. 4, sec. 567, &c.] *State* v. *Norwood et al.* 12 Md., 177.

ARTICLE XXXI.

McDONOGH EDUCATIONAL FUND AND INSTITUTE.

ORDINANCES.

BOARD OF TRUSTEES.

1. Trustees appointed.
2. Property.
3. Number of trustees: vacancies, how filled.
4. Powers of trustees: by-laws, rules and regulations: president, secretary and agent: salaries: bond.
5. Sale and purchase of real estate: school farm: interest on investment: proviso.
6. Support and maintenance of school farm: instruction and education of youth.
7. Annual report to mayor and council: account of receipts and expenditures.
8. Inspection of records, accounts, grounds and buildings of institute by mayor: committees of council.

MCDONOGH BEQUEST

9. Previous ordinances, &c. relating to.

ORDINANCES.

MANAGEMENT OF THE MCDONOGH EDUCATIONAL FUND AND INSTITUTE.

No 68, July 10, '68. Board of trustees.

1. Lawrence Sangston, Joshua Vansant, Albert Schumacher, Robert T. Baldwin, John Donnell Smith, James B. George, H. Clay Dallam, William A. Stewart, and William Keyser of the city of Baltimore, are hereby constituted a Board of Trustees of the McDonogh Educational Fund and Institute.

Ibid, s. 2. Property.

2. All the money, stocks, securities, investments, property and estate of every kind and description, with the increment thereon, which has heretofore come into the possession of the city of Baltimore, or which hereafter may come into its possession, or which is now held by any agent, trustees or board of trustees heretofore created by any ordinance, and which has been or may hereafter be received under the bequests and devises contained in the will of John McDonogh, by the

city of Baltimore, shall pass to and be invested in said board of trustees.

Ibid, s. 3 Number of trustees.

3. The number of trustees shall not be less than seven, nor more than nine, and if at any time they shall be reduced to a less number than seven by death, resignation, or removal out of Baltimore city or otherwise, it shall be the duty of the remaining trustees to fill each vacancy within thirty days after its occurrence, and if they do not fill such vacancy within said period, it shall be the duty of the president of the board to notify the mayor of the city of Baltimore of the fact of said vacancy, and thereupon it shall be the duty of the mayor to appoint some person to fill such vacancy or vacancies as often as they may occur in manner aforesaid, and the person so appointed shall be and become one of the trustees to all intents and purposes.

Vacancies, how filled.

Ibid, s. 4. Powers of trustees. By-laws, rules and regulations.

4. A majority of trustees shall have power from time to time, to enact and make by-laws and rules and regulations for the management and government of said Fund and Institute, they shall also have power to remove any one of their own number who in the opinion of the majority of said trustees may be negligent of his duty or otherwise conduct himself improperly, to elect annually a president, secretary and agent, fix their salaries and prescribe their respective duties, and to remove them at pleasure, to appoint such other officers and servants as they may deem necessary and proper, according to such rules and by-laws as may be prescribed by them, and any officer or officers or agent, who shall be appointed to receive and disburse the money of said Fund and Institute, shall, before he proceeds to act as such, enter into bond with such penalty and conditions as may be prescribed by said trustees.

President, secretary and agent.

Salaries.

Bond.

Ibid, s. 5. Sale and purchase of real estate.

5. The said trustees may sell all the real estate situate in the city of Baltimore, heretofore purchased by the trustees of the McDonogh Educational Fund and Institute, and invest the proceeds in real estate in the vicinity of Baltimore, of such dimensions and at such distance from said city as to them may seem most judicious for the purpose of establishing

School farm. a School Farm, as directed under the will of the said John McDonogh, which real estate shall be in fee simple and adapted to agricultural purposes; in addition to the proceeds arising from the sale of the real estate aforesaid, the said

Interest on investment. trustees are authorized to use all the interest which may accrue from the investment of the sum of five hundred thousand dollars, in the purchase of said real estate and erection of such buildings and improvements thereon as may be necessary for such school farm, until the purchase money of the land and

Proviso. the erection of said buildings shall have been fully paid; provided, nevertheless, that the principal sum of said fund shall at no time be less than five hundred thousand dollars, which the said trustees are required to have well secured at all times.

Ibid, s. 6. Support and maintenance of school farm. 6. So soon as the purchase of the real estate and the erection thereon of the buildings mentioned in the preceding section shall have been completed and paid for, the said trustees shall apply the interest issuing from said funds, as well as the interest which may be derived from all other property devised to the city of Baltimore by the said John McDonogh, to the support and maintenance of said school farm

Instruction and education of youth. and the expenses incident to the proper instruction and education of the youth directed by said will of said John McDonogh.

Ibid, s. 7, Annual report to mayor and council. 7. It shall be the duty of the board of trustees to exhibit to the mayor and city council of Baltimore, annually, a full report in writing of their proceedings during the year, and of the state of the Institute, showing the number and condition of the scholars and all matters necessary to the full understanding of the affairs and situation of the Institute, which shall be certified by oath or affirmation of the president, secretary and agent, and at least one of the trustees; it shall be

Account of receipts and expenditures. accompanied by an account or statement, certified in like manner, showing the receipts and expenditures for the year and the assets and pecuniary condition of the Institute, and said reports shall be addressed to the mayor at least ten days

before the annual meeting of the city council in each and every year.

Ibid, s. 8. Inspection of records, accounts, grounds and buildings of institute by mayor. Committees of council.

8. The records, books, accounts, papers, grounds and buildings of the said Institute shall at all times be open to the inspection and examination of the mayor; and the city council shall always have power, by resolution or otherwise, to appoint committees of their body to inquire into the affairs of said Institute.

MCDONOGH BEQUEST.

Res. No. 10, Jan. 9, '51. Preamble.

9. The ordinances and resolutions heretofore enacted on this subject are as follows: Resolution No. 10, approved January 9, 1851, recites, that whereas, John McDonogh, late of the city of New Orleans and the State of Louisiana, deceased, by his last will and testament, bequeathed unto the cities of Baltimore, in Maryland, and New Orleans, in Louisiana, legacies to a large amount; and whereas, the said John McDonogh, by said last will and testament, declares and says "and it is furthermore my wish and desire, and I hereby will, that in case there should be a lapse of both the legacies, to the cities of New Orleans, in the State of Louisiana, and Baltimore, in the State of Maryland, or either of them, wholly or in part, by refusal to accept, or any other cause or means whatsoever, then both or either of said legacies, wholly or partially so lapsed, shall inure, as far as it relates to the city of New Orleans, to the State of Louisiana, and as far as it relates to the city of Baltimore, to the State of Maryland; that the legislatures of those States respectively, may carry my intentions as expressed and set forth in this my last will and testament into effect, as far and in the manner which will appear to them the most proper;[1]" therefore, be it resolved, that the city of Baltimore does hereby accept the interest and property in the estate of John McDonogh, late of the city of New Orleans and State of Louisiana, deceased; devised and

Ibid, s. 2. Trust accepte

[1] By act of 1852, c. 6, the State legislature enacts, that it is the declared intention of the State to assent to, and to accept, the bequest and devise made to it by the said will.

bequeathed to the city of Baltimore, by the last will and testament of the said John McDonogh. And the city of Baltimore pledges her faith, that she will abide by and comply with the wishes and directions of the said John McDonogh, as expressed in his said last will and testament.

Ibid, s. 3. Faith of city pledged.

No. 2, s. 1, Dec. 28, '54. Three agents to be appointed. Residence. Duties. Term of office. Two only may be absent.

Ordinance No. 2, approved December 28, 1854, enacts, that immediately after the passage of said ordinance, there shall be appointed, as city officers are appointed, three persons of integrity and ability, one of whom shall be a citizen and resident of New Orleans, who shall originally have been a citizen of Baltimore, and two citizens of Baltimore, who shall be styled "Agents of the city of Baltimore for the McDonogh Bequest," who, (after having given bond, as provided for in the succeeding section of this ordinance,) shall with as little delay as possible, proceed to the city of New Orleans, and there represent the interests of the mayor and city council of Baltimore, in all things that appertain to the general estate of the late John McDonogh, wherein the cities of Baltimore and New Orleans are devisees. They shall act for and manage, conduct and administer the affairs of said estate jointly, with the three commissioners or agents appointed for the same purpose by the city of New Orleans. The said agents shall continue in office at the pleasure of the mayor and city council of Baltimore, and until the appointment and qualification of their successors, and they must reside in the city of New Orleans; and at no time shall more than two of the agents be absent from said city at the same time, under a penalty of forfeiture of their office.

Ibid, s. 2. Bond. Conditions.

That each of the said agents, before entering upon their duties or acting as agents, shall give bond in the sum of twenty-five thousand dollars to the mayor and city council of Baltimore, (which bond shall be approved by the mayor and presidents of the two branches of the city council,) for the faithful performance of their duties as agents under the will of the late John McDonogh; and that each of the parties signing said bond, as securities, shall make oath before a justice of the peace that he possesses and holds in his own

right, real estate in the State in which he resides, clear of all incumbrance, assessed for a sum equal to double the amount for which he shall propose to bind himself under the aforesaid bond; provided, that the joint sums for which the several securities shall thus be bound, shall not be less than twenty-five thousand dollars; and it is hereby further provided that a certificate from the magistrate by whom the aforesaid oath has been administered, properly authenticated, shall be deposited with the register of the city of Baltimore, before the approval of said bonds; the semi-annual account to be transmitted to the commissioners to be appointed by the city of Baltimore, as mentioned in said will, to be signed and sworn to by all the said agents, before a commissioner of deeds for the State of Maryland, or before a notary or judge, or magistrate, who shall affix thereto his signature, with the seal of his office, together with a certificate from the proper officer of the State of Louisiana, or city of New Orleans, authorized to give such certificates, sealed with the officer's proper seal, that said notary, judge or magistrate, is the officer such as his signature and seal describe him to be.

Proviso.

Certificate.

That the compensation of said agents shall respectively begin with the date upon which they take charge of the trust, and shall be two thousand five hundred dollars per annum, for each of the agents selected from Baltimore, and the same for the agent selected from New Orleans; payable quarterly out of the funds devised by the commissioners appointed under the will of the late John McDonogh, the mayor and city council of Baltimore, from the proceeds of the McDonogh bequest, and may be deducted by said agents from the moneys coming into their hands on said account, to be noted as such in their semi-annual account.

Ibid, s. 3, No. 11, Apl. 4, '57.

Compensation.

How to be paid.

That in case of the death, resignation or failure to bond in time, (say within thirty days after the appointment having been made,) of either or all of the agents, then the mayor shall, immediately thereafter, nominate a successor or successors, as provided for in the first section of this ordinance, if the council be in regular or special session, and if it be during

Ibid, s. 4.

Failure to give bond.

Vacancy, how to be filled.

the recess of the council, then the mayor shall immediately convene the city council, and said mayor and city council shall proceed to fill such vacancy or vacancies in the manner providing for the appointment of said agents in the first section of this ordinance.

Ibid, s. 5. Joint standing committee of mayor and council.

That there shall hereafter be annually appointed, by resolution of the mayor and city council of Baltimore, a joint committee of three members of each branch, which committee shall be named the "joint standing committee on the McDonogh Bequest." This committee shall audit the agents' accounts, and examine the proceedings of the commissioners and directors of the McDonogh bequest; and to this committee shall be referred all memorials and subjects appertaining to the McDonogh estates, connected with the city of Baltimore; and the committee will report from time to time, as may be useful, the state of the funds of the bequest, and the value and condition of the real estate, to the mayor and city council of Baltimore.

Duties.

Ibid, s. 6. Mayor and city council not responsible.

That the mayor and city council of Baltimore shall, in no wise, be responsible for the acts or omissions of the agents aforesaid, of whom they are the supervisors by virtue of the power vested in them by said will, nor for the salaries of said officers, nor for any expenses by them incurred in the prosecution of their trust.

Ibid, s. 7. Agents, how to be changed or removed.

That the agents appointed as aforesaid, shall not be changed or removed, except only by an ordinance of the mayor and city council of Baltimore; and should it be necessary, at any time in the recess of the council, in the opinion of the mayor, that any one or all of said agents should be changed, then, and in that case, it shall be the duty of the mayor forthwith to summon the members of the city council, to take into consideration the propriety of such change; the reasons for which he shall report to the council. And it is further enacted that no appointment of agents under the will of the late John McDonogh, shall be made without the concurrence of a convention of the city council of Baltimore.[1]

Appointment by concurrence of the two branches of the city council.

[1] Ord. approved Sept. 18, '54, entitled, an ordinance for the appointment of agents to represent the city of Baltimore in the execution of the will of John McDonogh, late of the city of New Orleans, deceased, was repealed by above ordinance.

Ordinance No. 26, approved May 28, 1858, entitled "an ordinance for the appointment of agents to represent the city of Baltimore in the receipt, administration, sale and liquidation of Baltimore's interest in the estate of the late John McDonogh, of Louisiana, deceased; and for the appointment of a Board of Trustees of the McDonogh Educational Fund and Institute," enacts, that Brantz Mayer, William S. Peterkin and Thomas L. Emory be appointed agents of the city of Baltimore for the receipt, administration, sale and liquidation of the portion of the estate of the late John McDonogh, of Louisiana, deceased, to which Baltimore is entitled by virtue of said McDonogh's will, and by virtue of the decree for partition of said MoDonogh's estate between the cities of New Orleans and Baltimore, rendered by the Fifth District Court of New Orleans, and confirmed by the Supreme Court of Louisiana; but before entering upon the duties of their office, each of the said agents shall give bond, with security, in the sum of twenty-five thousand dollars, to the mayor and city council of Baltimore, for the faithful discharge of the duties hereinafter described and defined—said bonds to be approved by the mayor, comptroller and the presidents of the two branches of the city council, and to be deposited with the comptroller of the city of Baltimore.

No. 23, May 28, '58.
Agents appointed.
To give bond.

That the powers and duties of said agents shall be the following, to wit:—

Ibid, s. 2.
Powers and duties of agents.

1st. The said agents are hereby directed and empowered to receive from the agents and commissioners of the cities of New Orleans and Baltimore, now jointly administering the estate of the said McDonogh, deceased, by virtue of ordinances passed by said cities, all the portion or portions of said John McDonogh's estate, real and personal, movable and immovable, to which the said city of Baltimore is entitled under said McDonogh's will, and by virtue of the decree for partition heretofore referred to. They are authorized and empowered to give receipts and acquittances for the same to the said board of agents and commissioners, and if necessary, to the city of New Orleans; and to make all settlements in

To receive city's proportion of estate.

liquidation of accounts with said city of New Orleans, for taxes, expropriated property and their several interests in said McDonogh's estate.

To have care and management of city's share of estate.

2d. The said agents are hereby further directed and empowered, after the receipt by them of the city of Baltimore's share of said McDonogh's estate as aforesaid, together with all the books, papers, plats and evidences of title requisite for the separate administration of the property—to do and perform all necessary acts for the care and management of the same, as fully and entirely as if the property were under the immediate control, in this city, of the mayor and city council of Baltimore; they are directed to lease and repair property, collect rents, pay taxes, claims, judgments, costs of administration, and to settle with and make payment or satisfaction to the American Colonization Society, and the Society for the Relief of Destitute Orphan Boys, (beneficiaries under said McDonogh's will,) according to the principles settled by the Supreme Court of Louisiana in its confirmation of the decree for the partition of the McDonogh estate; and to perform all such other administrative acts as shall be needful for the guardianship and economical management of the property until it is sold.

To advertise and sell property.

3d. The said agents are hereby further directed and empowered to advertise for sale and to sell at public sale, if advisable, and if not deemed by them advisable, then to sell at private sale, at the earliest favorable period, and on such terms as to credit and purchase money as in their judgment shall be most advantageous for the interests of the city of Baltimore, all and every part of the real and personal estate, movable and immovable property, belonging to said city of Baltimore, under and by virtue of the will of the said John McDonogh, and of the decree of partition aforesaid, recently confirmed by the Supreme Court of said State. Express and special powers are hereby given to and vested in said agents, appointed by this ordinance, to effect such sales of said real and personal, movable and immovable property, and, in the name of and for the city of Baltimore, to give full and com-

Express and special powers of agents.

plete titles to the purchaser or purchasers, according to, and in compliance with, the terms of sale, so as, under the laws of Louisiana, to convey to said purchaser or purchasers, the title of said city of Baltimore in each and every part of said property sold by the said agents. All obligations, bonds, mortgages, notes, guaranties or securities from said purchaser or purchasers, in said sales, shall be given to the agents and received by them in their capacity as agents for the city of Baltimore under this ordinance.

Proceeds o sales to be paid to board of trustees.

4th. The said agents are hereby directed, and it shall be their duty to remit to the Board of Trustees of the McDonogh Educational Fund and Institute, created by the fourth section of this ordinance, all proceeds of said sales, in cash, notes, bonds, mortgages or other securities, and all moneys collected by them, as soon as received, and to take receipts therefor from said board of trustees; and semi-annually, during their continuance in office, to send a sworn report of their action under this ordinance, and of their financial accounts, to the mayor and city council of Baltimore; and, as soon as practicable, to liquidate the whole of said city's interest in said McDonogh's estate.

Agents to report semi-annually.

Agents to provide for the slaves belonging to the estate.

5th. The said agents are hereby directed and empowered, in connection with the city of New Orleans, or, with such agents as said city may authorize to act for it, to provide for the slaves belonging to said John McDonogh's estate, according to the designs of his will, either by transporting them, or a portion of them, as soon as practicable, to one of the colonies of free negroes in Africa, or by their liberation, or the liberation of portions of them, from servitude. For this purpose, the agents are hereby authorized to apply such sums of money as will be sufficient, with similar co-operation by the city of New Orleans, to fulfil in spirit the humane purposes of the late John McDonogh, in regard to his slaves.

Ibid, s. 3. Compensation of agents.

That the agents of the city of Baltimore, in compensation for their services, travelling expenses, salary of a clerk, and all other extras in discharge of their trust and duties under this ordinance, be and they are hereby authorized to receive

a compensation of four per cent. on the amount received from the sales of the city of Baltimore's share in the estate of John McDonogh; the said four per cent. to be divided as follows: one and one-half of one per cent. to Brantz Mayer, one and one-half of one per cent. to William S. Peterkin, and one per cent. to Thomas L. Emory.

Ibid, s. 4. Board of trustees to be appointed.

That, whereas, it is considered an object of primary obligation to keep the legacy of the late John McDonogh separate and distinct from the general funds of the city of Baltimore, so that while it accomplishes the leading object of the testator, it may stand as a monument of his liberality and public spirit—a board of trustees, consisting of twenty persons, of good standing, who shall be citizens of Baltimore, shall be appointed by the mayor and city council of Baltimore, as other city officers are appointed—one to be taken from each ward of the city—who shall annually appoint a president from their own body, and who are hereby constituted a board for the receipt, safe keeping and investment of the funds and proceeds of sale which shall be received from the agents of the city of Baltimore, according to the fourth clause of the second section of this ordinance. The said board shall be styed "The Board of Trustees of the McDonogh Educational Fund and Institute," the income of which fund shall be forever sacredly devoted to the purposes of education.

Ibid, s. 5. Board of trustees, term of office.

That the members of this board shall be appointed to serve for six years; provided, however, that of the members of the board first appointed under the provisions of this ordinance, one-half to be designated by the mayor, shall be appointed for but three years, so that the term of one-half of the members of the board shall expire alternately every three years; but the members of the board of trustees may be removed at any time by the mayor and city council of Baltimore for maladministration of their official duties; and on such removal, or on the death, resignation or removal from the city of Baltimore of said trustees, or of any of them, the mayor shall proceed at once to the appointment of a successor or successors to such removed, deceased or resigned trustee or trustees.

Vacancies, how filled.

That it shall be the duty of the trustees of the McDonogh Educational Fund and Institute, to establish within the corporate limits of the city of Baltimore, or adjacent thereto, an institution for the maintenance and education of poor boys, to be styled the "McDonogh Institute," said institute to be under the control and direction of said board of trustees. Ibid, s. 6. Institute to be established.

That the proceeds of all sales of property, or rents of property, until the same shall be disposed of, growing out of, or in any way appertaining to the estate of the late John McDonogh, shall be invested in the public securities of the city of Baltimore, for the purposes of this trust, and on no condition shall any part of the principal of the same be disposed of or alienated for any purpose whatever. Ibid, s. 7, No. 36, May 16, '50. Funds, how invested.

That said institute shall be free from all sectarian influence. Ibid, s. 8. Institute to be free from sectarian influence

That whenever the funds arising from the proceeds of the sales of the property now held by the city of Baltimore in the McDonogh estate, shall, in the judgment of the trustees of the McDonogh Educational Fund and Institute, be sufficient, they shall proceed to procure a site for the erection of buildings suitable to the objects and purposes of said trust, making such provision as shall accord with the character and probable magnitude of the bequest. Ibid, s. 9. Trustees to procure a site for the erection of the buildings.

That the intention of the mayor and city council being to preserve intact the principal of the legacy of the said John McDonogh to an extent of five hundred thousand dollars, should so much be realized, in order that the same may stand as a perpetual memorial of the noble legacy bequeathed to the city of Baltimore, said board of trustees shall not be limited as to time in the securing of a site and erection of suitable buildings, but shall appropriate only the accruing interest upon said fund, unless the same shall exceed five hundred thousand dollars, when the surplus, or such part thereof as may be necessary, may be appropriated towards said object. Ibid, s. 10. Trustees not limited as to time in securing a site.

That the architectural design of said buildings shall be plain and substantial, and constructed with the strictest eye to use and economy. Ibid, s. 11. Style of buildings.

Ibid. s. 12. Educational plan.

That said institute, in its educational plan, shall comprise a preparatory and collegiate department, and no boy shall be received in said institute under the age of eight years.

Ibid, s. 13. Appointments to institute to be made by trustees.

Proviso.

That all appointments to said institute shall be made by the board of trustees, and that every ward of the city of Baltimore shall be entitled to an equal share in the benefits of said institute; provided, that should the quota of pupils to which any ward is entitled not be filled, by want of suitable applicants from said ward, for the space of three months, then the board of trustees may fill the said vacancy or vacancies by the appointment of applicants from the city at large.

Ibid, s. 14. Boys to be maintained at cost of the institute.

That all boys received into said institute shall, from and after the period of entrance, be supported and maintained at the exclusive cost of said institute.

Ibid, s. 15. Trustees to establish regulations.

That said trustees shall have power to adopt and establish all needful plans and regulations connected with the establishment and working of said institute for the maintenance and education of poor boys, not inconsistent with the general provisions of this ordinance, and to do such other acts as may be necessary to bring the same into practical operation, at such time as may be found convenient and advantageous to the interests of the city.

Ibid, s. 16, No. 55, July 14, '60. Trustees not to be concerned in contract for building, &c.

That no trustee appointed under this ordinance shall be in any manner connected with or concerned in any contract for the building or maintenance of said institute; nor shall any member of the board, either directly or indirectly, receive any compensation for his services.

No. 65, July 23, '60. McDonogh fund.

Ordinance No. 65, approved July 23, 1860, enacts, that the reports, documents, financial accounts, and other effects of the agents of the city of Baltimore for the receipt, administration, sale and liquidation of Baltimore city's interest in the estate of the late John McDonogh, of Louisiana, deceased, be referred to the mayor of the city of Baltimore, the two presidents of the city council of Baltimore, and the president of the board of trustees of the McDonogh Educational Fund and Institute, created by virtue of an ordinance approved May 28, 1858, being ordinance No. 26; the said

mayor, presidents of the city council, and president of the board of trustees of the McDonogh Educational Fund and Institute, being hereby fully empowered to examine the same, and if found reasonable, correct and proper, to allow the same, and to give full and final receipts for the mayor and city council of Baltimore to said agents in liquidation of their accounts, in conformity with the aforesaid ordinance No. 26, of the session of 1858.

No. 1, Nov. 30, 60 Contract with counsel.

Ordinance No. 1, approved Nov. 30, 1860, enacts, that the agents of the city of Baltimore, for the receipt, administration, sale and liquidation of the estate of the late John McDonogh, be and they are hereby authorized to enter into a contract with counsel, learned in the law, for the prosecution of the city of Baltimore's right and claim under the will of said McDonogh in 227,853 acres of land in the Florida parishes of Louisiana; and after the recognition of said right and claims, by actual confirmation, or satisfaction for said right and claims in such other form or manner as Congress may enact, the said agents are hereby authorized to sell the said confirmed lands, or to dispose of whatever may be received as satisfaction of said rights and claims, and to pay one-half of the proceeds, after such sale or disposition, to the counsel employed to prosecute said rights and claims to a final decision; provided always, that said counsel shall, in his agreement with said agents, bind himself to hold and save the city of Baltimore, as well as said agents and the interest of the city of Baltimore, in any of the property and estate of the late John McDonogh, free from all demands, costs, charges, expenses and outlay for the prosecution of said rights and claims incurred either in prosecuting the same before the Congress of the United States, or any department, or officer of the government, or in any court, or in any manner, place or form whatsoever, except the one-half of the ultimate proceeds aforesaid, as full contingent compensation, it being the distinct understanding that no compensation shall be paid except on ultimate success, and that, in no event, whether successful or not, shall the city of Baltimore be liable for any

Land in Florida parishes of Louisiana.

One-half of proceeds to counsel.

Proviso.

City not liable for costs.

expenses, costs, charges, or outlay, nor shall any expenses, costs, charges or outlay be deducted from the proceeds of said lands, or what may be recovered in satisfaction of said claims, but the said counsel shall pay the same.

No. 94. Oct. 22, '64.

Agent of McDonogh fund.

Ordinance No. 94, approved October 22, 1864, entitled, "an ordinance to appoint an agent for the McDonogh bequest," enacts, that John W. Randolph be and he is hereby appointed agent of the city of Baltimore for the liquidation of the estate of John McDonogh, to which said city is entitled, and which remains as yet unliquidated and unadministered, and all vacancies to be filled by the mayor and city council as other city officers are appointed, but before entering upon his duties, the said agent shall execute to the mayor and city

Bond fifty thousand dollars.

council of Baltimore a good and sufficient bond with sureties to be approved by the mayor, register and comptroller, in the penal sum of fifty thousand dollars, conditioned for the faithful discharge of the trust hereby reposed in him, and for the prompt payment and delivery over to the board of trustees of the McDonogh Educational Fund and Institute as soon as the funds may be received by him. And the said agent hereby

Receive.

appointed is directed and fully empowered to receive from the late agents of the city of Baltimore, Messrs. Brantz Mayer and William S. Peterkin, whatever funds, securities, books, accounts, papers and other effects may be in their

Give receipt.

hands belonging to the city of Baltimore. To give the said agent a sufficient receipt and acquittance. The said agent shall proceed to liquidate and settle, receive and collect and pay over as aforesaid, all that remains unsettled and uncollected of the portion of said McDonogh's estate belonging to the city

Sell.

of Baltimore, and shall have power to sell personal and real

Bring suits.

estate, bring suits or institute and prosecute all such proceedings as may be deemed expedient for the purpose of executing the trust hereby reposed in him.

Ibid, s 2.

Make statement.

That the said agent shall provide suitable books of accounts, and make a written statement in January and July in each year to the comptroller of the city and to the board of trustees of the McDonogh Educational Fund and Institute, and

annually, in the month of January, to the mayor and city council of Baltimore, showing the condition of the McDonogh fund in every particular. And the said agent shall receive as a compensation for his services the sum of fifteen hundred dollars per annum, including all charges or expenses incurred by him in executing the duties of this agency; provided that in case of actual expense incurred by a trip to New Orleans, the board of trustees of the McDonogh Educational Fund and Institute may in their discretion allow him a sum sufficient to defray the expense actually incurred, provided the same shall not at any time exceed the sum of four hundred dollars.

Compensation.

Proviso.

That the powers vested in Brantz Mayer, Wm. S. Peterkin and Thomas L. Emory, by the annual ordinances of 1858, No. 26, are hereby revoked and annulled, and that all unsettled business still remaining in their hands as agents in the premises, shall pass to and be vested in said agent, under and by virtue of the powers hereby conferred upon him.

Ibid, s. 3.

Powers to former agents revoked.

By resolution No. 13, approved February 13, 1855, the agents of the McDonogh estate appointed on the part of the city of Baltimore in pursuance of the will of the late John McDonogh, were authorized, if in their judgment it should appear advisable, to apply to the fifth district court of New Orleans, as representatives of the city of Baltimore and its authorities, under the provisions of said will, and to do all things that might be necessary under the laws of Lousiana; to appear for and represent this city and its authorities in any action or actions, petition or petitions, that might then or thereafter be pending before said fifth district court, or any other tribunal of said State.

Res. No. 13, Feb. 13, '55.

Fifth District Court, New Orleans.

By resolution No. 59, approved May 11, 1858, the mayor was authorized and directed to enter into such arrangements as had already been made by the city authorities of New Orleans for the prosecution of the claims of the estate of the late John McDonogh, founded upon Spanish, French and other grants, which had been declared invalid by the Supreme Court of the United States, and which required a special act of Congress for confirmation.

Res. No. 59, May 11, '58.

Claims of estate.

Res. No. 155, Oct. 15, '58.

By resolution No. 155, approved October 15, 1858, the agents of the city of Baltimore for the administration and sale of the late John McDonogh's estate belonging to the city of Baltimore, were authorized and directed to pay out of the

Heirs of Hammett.

city of Baltimore's share of the McDonogh estate, to the city register for the use of the heirs of Jane Hammett, or their lawful representatives, the sum of three thousand dollars, being one-half of the amount bequeathed to the said Jane Hammett by the will of said John McDonogh, deceased, and which became lapsed to the city of Baltimore. And that the register of the city, upon the receipt by him of the said sum of three thousand dollars from the agents aforesaid, should pay the said sum to the heirs and representatives only of the said Jane Hammett, in proportion to their respective representative interests as children or grand children of the late Jane Hammett, and to no other person or persons.

Res. No. 11, Feb. 7, '68.

By resolution No. 11, approved February 7, 1868, it was resolved that the communication of the city counsellor upon

Heirs of Daniel.

the matter of the letter of Semmes and Mott, in relation to the claim of the heirs of Daniel, for one-half of the interest of the city of Baltimore in the tract of land in or near the city of New Orleans, be communicated to the agent of the McDonogh bequest, requesting him to inform Messrs. Semmes and Mott that the city of Baltimore contest the claim of said heirs, and requesting the counsel of the city of Baltimore in New Orleans to resist said claim.

WILL.

By the will of John McDonogh, the bulk of his estate was devised and bequeathed to the mayor, aldermen and inhabitants of New Orleans, his adopted city, and the mayor, aldermen and inhabitants of Baltimore, his native city, and their successors forever, in equal proportions of one-half to each of said cities, for purposes of public utility specified in said will, and especially for the establishment and support of free schools in said cities and their suburbs, wherein the poor and the poor alone, of both sexes, of all classes and colors, shall have admittance free of expense, for the purpose of being instructed in the knowledge of the Lord, and in reading, writing, arithmetic, history, geography, singing, &c. This is the principal object of the testator's bounty. He also provides especially for a school farm near the city of Baltimore. See *McDonogh's Ex'rs.* v. *Murdock et al.* 15 How. U. S Supreme Court Reports, 368.

LITIGATION OF THE MCDONOGH ESTATE.

John McDonogh died 27th October, 1850. His will, which was entirely in his own handwriting, was opened and proved in the 5th District Court of New Orleans, La. on the 29th October, 1850.

Of his numerous testamentary Executors, Christian Roselius, A. D. Crossman, Wm. E. Leverich and F. B. D'Aquin, of New Orleans; Benjamin C. Howard, John Spear Smith, Brantz Mayer and William Gibson, of Baltimore; and R. R. Gurley, of Washington, qualified in December 1850, according to the laws of Louisiana. Messrs. Howard, Mayer, Gibson and Gurley, however, after qualifying, did not remain in Louisiana, and the point being raised by *some* of the other executors,—(though they had not notified these gentlemen of their intention,)— it was decided by the Court that they were excluded and could not act. The administration of the will, accordingly, fell on Messrs. Roselius, Crossman, Leverich, D'Aquin and Smith, until they handed the estate over to the representatives of New Orleans and Baltimore, in 1855, after the preliminary litigation was finally concluded as to the validity of the will and the title of the property.

This litigation began almost instantly after the death of the testator, and it may be briefly summed up as follows:

1. The objection of a creditor.
2. A sequestration of the whole estate in the hands of the sheriff of New Orleans, to await the decision of the suit of the States of Louisiana and Maryland against the succession of McDonogh,—by which it was alleged that the legacies to New Orleans and Baltimore were null and void, and that the States were entitled to the property, in conformity to law and the intentions of the testator. This suit was decided *against* the claim of the States.
3. A suit brought by Mary Murdock and others, heirs of John McDonogh, in Equity, in the Circuit Court of the U. S. for the Eastern District of Louisiana, against the Executors of John McDonogh and others, alleging the nullity of the will and claiming the estate of the deceased *as heirs*. This case was finally decided by the Supreme Court of the U. S. on appeal, at December term, 1853,—and the bequests to the cities of New Orleans and Baltimore, &c. sustained. See 15 How. U. S. Supreme Court Reports, 367.
4. A suit of the heirs of Spencer against the succession, for a claim against Mr. McDonogh, which resulted adversely to the estate in a judgment, &c. amounting to $17,961.31, which was paid in full.
5. A suit of Sarah Greenwood and others, for a claim against Mr. McDonogh; decided in favor of the estate by the Supreme Court of Louisiana, on an appeal.
6. A suit of F. J. Durant in favor of absent heirs, of which he had been appointed curator, and which, it is believed, was not prosecuted to any result.
7. A suit of Messrs. Howard and Mayer for a share of the commissions as Executors, claimed by them, which resulted in their favor, and was paid by the city's representatives. See Res. Sept. 29, '54.
8. A suit of New Orleans, the American Colonization Society, and the Society for the relief of Destitute Orphans, against Baltimore for the Partition of the Estate of John McDonogh. Partition between the cities granted, ordered, made and confirmed.
9. A suit of the American Colonization Society and the Society for the Relief of Destitute Orphan Boys, against the Estate, for their distributive share

and ascertainment of its money value. The court awarded to each Society $84,230.27; and by another award of arbitrators in 1859, each Society also received $3,273.90 for annuities due to it until the time of actual payment of the judgment.

10. A suit of Francis Fena against New Orleans and Baltimore, for a claim of $100,000 on a "will" of Mr. McDonogh in his favor for that sum, written on a small slip of paper, and produced, for the first time, several years after the probate of the original will devising his estate to the cities. This singular and last produced will was sustained by the Supreme Court of Louisiana; and the $100,000, with the interest allowed, paid in full in 1859.
11. A suit of Moses Fox against New Orleans and Baltimore, claiming $300,000, under another alleged will of Mr. McDonogh, in his favor. This suit was defeated.
12. A suit of New Orleans *vs.* Baltimore, for $50,000 as an equal share of the fees paid by New Orleans to counsel employed by that city on its own terms, to defend the interests of the cities under the will, soon after its probate, and immediately on the commencement of litigation. This was decided against Baltimore; the judgment being for $37,500.

ADMINISTRATION OF THE MCDONOGH ESTATE, UNDER THE WILL, BY THE AGENTS OF BALTIMORE BEFORE PARTITION—AND SUBSEQUENT SALE AND LIQUIDATION BY THEM OF BALTIMORE'S SHARE.

Under the two ordinances, by the provisions of which Messrs. Brantz Mayer, William S. Peterkin, and Thomas L. Emory were appointed in 1855 and 1858, agents of Baltimore for the administration and liquidation of its share of the McDonogh estate, the history of their action will be found among the *printed* Journals and Reports to the Mayor and City Council of Baltimore, in the following documents:

1. A Report and Documents relative to the McDonogh Estate, from Messrs. Mayer, Peterkin and Emory, agents of the city of Baltimore, presented in First Branch of Baltimore City Council, May 23d, page 789; and dated at New Orleans, 9th May, 1855.
2. A Report of the Commissioners and Agents of the General Estate of Jno. McDonogh, dated New Orleans, 24th January, 1856.
3. A Report of the Agents and Commissioners, &c. &c. of the McDonogh Estate, dated New Orleans, 2d February, 1857.
4. A Report of the Experts, Messrs. Brantz Mayer and Theodore G. Hunt, appointed to make a Partition of the McDonogh Estate, dated New Orleans 23d May, 1857.
5. A Report of the Commissioners and Agents of the General Estate of Jno. McDonogh, dated March 20, 1858.
6. A Report of Brantz Mayer, Wm. S. Peterkin and T. L. Emory, agents of Baltimore *for the sale and liquidation* of the McDonogh estate, dated New Orleans, May 30, 1859.
7. Journal of Second Branch City Council of Baltimore for Tuesday 24th April, 1860;—A Report of Transfer of Notes received for sale of the McDonogh estate—in value $423,808.82—to the Trustees of the McDonogh Educational Fund and Institute, together with Mr. John W. Randolph's receipt as President of the Board.
8. A Report of Messrs. Mayer, Peterkin and Emory, agents of Baltimore, &c. &c., dated New Orleans May 7, 1860.
9. A Report from Brantz Mayer for self and colleagues, agents, &c. of McDonogh estate, dated Baltimore, 4th Febuary, 1861; to be found in Journal of First Branch City Council, 7th Feb. 1861.

10. A Report of the Agents of the McDonogh Estate, dated New Orleans 12th April, 1861, and Baltimore 22d April, 1861, in Journal 1st Branch City Council, April 25, 1861.

These documents show the complete administration of the estate so far as the interest and share of Baltimore were concerned, by Messrs. Brantz Mayer, William S. Peterkin and Thomas L. Emory, until the outbreak of the war. From 1850 to 1855—the testamentary executors managed the property. In the spring of 1855 they handed over to a joint administration, constituted by city ordinances of New Orleans and Baltimore, to agents of Baltimore and commissioners of New Orleans, viz: in property, (real estate,) $2,086,874.58; in cash $59,-112.53; in chattel property $16,762, (*exclusive of slaves, which are not valued as property,*) and of whom there were 81 in all; inasmuch as all his (McDonogh's) slaves were to be freed and sent to Africa in 15 years from his death. In *sperate* debts and bills receivable $66,951.83. Making the total valuation of the Estate belonging to New Orleans and Baltimore, and then transferred as follows:

In real estate,	$2,086,874 58
In cash,	59,112 53
In chattel property,	16,762 00
In *sperate* debts and bills receivable,	66,951 83
	$2,229,700 94

These valuations were made generally *according to the original inventory* of Mr. McDonogh's estate at his death, 1850–'51.

This *resume*, it will be seen, gives a larger amount than that stated by the agents of Baltimore in their first report from New Orleans of May 9, 1855; for the properties in St. James' Parish, valued at $303,000, and in St. Charles' Parish, valued at $500, had not been appraised during the administration *by the executors*, or returned in the inventory from the Court of what was transferred by these *executors* to the agents and commissioners of the two cities. The allowance for *sperate* debts is also increased, and the charge in favor of the estate of $20,000 thrown off as the ten year's value of the services of 81 negroes until they were freed. In the estate's inventory, 1850–'51, at McDonogh's death, the slave property of the succession was valued at $42,960.

After the Partition of the Estate, and its sale in 1859, the representatives of the cities, in fullfilment of McDonogh's wishes, and without awaiting the expiration of the 15 years, sent all his slaves to Africa, abundantly provided with the necessaries and comforts of life in their new home, as well as with the implements of their trades and of agriculture. A vessel was chartered to take them out. A physician was sent to take care of them. They were put for six months after arrival under the care of the agents in Africa of the American Colonization Society, (which had received a legacy of nearly $90,000;) and finally found their resting place at Carysburg, in Liberia. Here, it is understood, they have been thoroughly established, and have been doing well.

On the *re-appraisement of the real estate belonging* to this succession at the period of the Partition of it between Baltimore and New Orleans by the experts, Messrs. B. Mayer and T. G. Hunt, in May, 1857, it was found that the estimated value affixed to this *Real Estate* when the original inventory was made, immediately after Mr. McDonogh's death, 1850–'51, viz: of $2,086,874 58, was greater than the valuation then made by experienced men in 1857. The *gross* valuation in the

three districts of New Orleans, the town of McDonoghville, and in twelve parishes of the State of Louisiana, was $1,408,880, of which Baltimore's half, *as apportioned*, was $704,440. But there was also some real estate not then capable of apportionment between the cities, but which had to be sold jointly and the proceeds divided. This joint and *undivided* property was valued at $56,800, which, added to the $1,408,880, of *divided* property, gave a total of $1,465,680, *of real estate*. This demonstrated either a decline of values in landed property in Louisiana, *or an overestimate* of $621,194.58, in 1850-'51. When Messrs. Mayer, Peterkin and Emory closed their liquidation of Baltimore's share two years afterwards, in May, 1860, the then *gross* sales on the four year's credit allowed, exhibited a total of $918,715.06. The appraised value of *our divided* share (*Baltimore's*) was $704,440, and of our *undivided share*, $28,400, making a sum of $732,840, which, if deducted from $918,715.06, left a balance of $185,875.06 towards paying all the liabilities of Baltimore on account of this estate. If we estimate them at $250,000, and credit our city with whatever was received for rents, &c., *after partition*, and what shall also be realized from property yet unsold, we have the satisfaction to find that Baltimore will, in all likelihood, from all sources, receive between six and seven hundred thousand dollars, clear of all charges, or not much less than the *appraised* estimate of the value of our entire share in 1857. This practically amounts to a liquidation of the estate, *and a payment of all its debts, legacies and liabilities* for about ten per cent. on its valuation in 1857.

But after this partition and sale the war intervened, and an entire change came over the character and value of property in Louisiana. This change especially affected *the unsold country, or plantation property* in the parishes of Iberville, . James', &c., &c. To the 4th of January, 1869, the finance committee of the trustees of the McDonogh Educational Fund and Institute, report their investments and cash from the entire realized funds in their hands to be $522,740.96. The president of the board says, (in reporting what may be recovered of unpaid debts, and from unsold property,) that, from the best information the trustees have received, they hope, in time, to realize $100,000 from these sources.

This accords with the estimate of the general result made by Messrs. Mayer and Peterkin in 1859, in their report of that year, and shows that, had not the troubles which assailed the country intervened, the estimate of over $600,000 would doubtless have been greatly exceeded by the final results.

MONUMENT TO MCDONOGH.

John McDonogh was born in Baltimore, Dec. 29, 1779. He died in the town of McDonoghville, a small settlement on property belonging to him immediately opposite the city of New Orleans, and directly on the river, on the 27th of October, 1850. [On his tomb in Greenmount Cemetery, Baltimore, the date of his death is erroneously recorded as of 26th October, 1850.] He was buried in a cemetery belonging to himself in the rear of McDonoghville, in a substantial marble burial vault, and there his remains rested until 1860, in the spring of which year they were sent to Baltimore for final interment, as he had requested in his will, and temporarily deposited in the family vault of Mr. Brantz Mayer, June 5th, 1860, until a suitable tomb could be prepared in accordance with the resolutions of the cities of New Orleans and Baltimore.

A Resolution of the mayor and city council of Baltimore, No. 89, approved June 5, 1858, recites that, "whereas, in the memoranda of instructions left with his will by the late John McDonogh, he desired that his remains might be deposited in a burial place of the city of Baltimore, together with the remains of his parents, and that a suitable vault be erected for their reception: and whereas, the wishes of the deceased in this respect, have not yet been complied with, &c;"—and then it enacts, that "the agents of said city be authorized to unite with the authorities or agents of the city of New Orleans, in removing the remains of said John McDonogh to Baltimore, and in fulfilling, as far as practicable, the wishes so earnestly expressed by him in the memoranda aforesaid; and that should the city of New Orleans decline uniting in the costs of removal and erection of a tomb, but should not object to the accomplishment of Mr. McDonogh's desires by the city of Baltimore, then the agents of Baltimore are hereby empowered to perform the duty, alone, in behalf of the city they represent; and are authorized to expend all necessary sums of money—not to exceed two thousand dollars—out of the city of Baltimore's share of the McDonogh estate, for said removal of remains, and for the erection of a suitable tomb and memorial of the deceased."

Under ordinance No. 56, July 14, 1860, and Resolutions No. 140, Sept. 24, '62; No. 190, Oct. 9, '63, and No. 26, Feb. 7, '67, a lot in Greenmount Cemetery was *donated* for the erection of a tomb and monument. Mr. McDonogh's remains were deposited, on the 1st of July, 1864, in the substantial vault built on this lot for their reception, and the stones above them laid and cemented under the personal supervision of Mr. Mayer. It was not, however, until 1866, that the monument above this vault was completed, the statue erected, and the commemorative services performed.

On the sides of the monument are the following inscriptions: "Sacred to the memory of John McDonogh, born in this city on the 29th of Dec., 1779; died in the State of Louisiana, on the 26th of Oct., 1850. Written by himself:—Here lies the body of John McDonogh, of the city of New Orleans, in the State of Louisiana, one of the United States of America, the son of John and Elizabeth McDonogh, of Baltimore, in the State of Maryland, and also one of the United States of America, awaiting in firm and full faith the resurrection and coming of his glorious Lord, Redeemer and Master to judge the world."

"Rules for my guidance in life, in 1804: Remember always that labor is one of the conditions of our existence. Time is gold, throw not one minute away, but place each one to account. Do unto all men as you would be done by. Never put off till to-morrow what you can do to-day. Never bid another do what you can do yourself. Never covet what is not your own. Never think any matter so trivial as not to deserve notice. Never give out that which does not first come in. Never spend but to produce. Let the greatest order regulate the transactions of your life. Study in your course of life to do the greatest possible amount of good. Deprive yourself of nothing necessary to your comfort, but live in an honorable simplicity and frugality. Labor then to the last moment of your existence Pursue strictly the above rules, and the Divine blessing and riches of every kind will flow upon you to your heart's content. But first of all, remember that the chief and great study of your life should be to tend by all means in our power to the honor and glory of our Divine Creator.

John McDonogh, New Orleans, March 2d, 1804. The conclusion to which I have arrived is, that without temperance there is no health; without virtue no order; without religion no happiness: and that the sum of our being is to live wisely, soberly and righteously."

"Erected by the constituted authorities of the cities of Baltimore and New Orleans, in memory of John McDonogh, and as a testimonial of their appreciation of his character and his munificent liberality for the promotion of a great public enterprize—the education of orphans. Here repose his remains."

ARTICLE XXXII.

MARKETS.

STATUTES.

1. Corporation to erect and regulate markets.
2. Penalty for buying to sell again in market: proviso.
3. How penalty enforced: fines and forfeitures.
4. Weight of butter: forfeited for light weight.
5. Clerks of markets may distrain meat for rent: to collect fines and forfeitures.
6. No charge for selling in market unless in stalls: proviso.
7. Penalty for collecting.
8. Corporation may sell or lease stalls.
9. Corporation may buy or lease land for purpose of extending markets.
10. Power to condemn lands, &c.: proceedings.
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ORDINANCES.

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7. Clerk to cause necessary repairs to be made: proviso.
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9. Police officers to attend markets and aid clerks.

10. Clerks to prevent idle or disorderly persons from frequenting market houses: penalty.
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27. The erection of certain structures prohibited: duty of clerks: proviso.
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29. Limits of benches regulated.
30. Regulations for occupiers of benches, &c.
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SALES, &C.

32. Meat not to be sold except on butchers' stalls: proviso.
33. Sale of unsound meat prohibited.
34. Mode of weighing.
35. Animals, &c., not to be driven on brick pavements: killing, &c., in markets prohibited.
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37. Sale of merchandise, &c., prohibited.
38. Females whose stock in trade does not exceed forty dollars may sell merchandise in markets: proviso.
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40. Dealers in certain articles from carts, &c., to obtain licenses: proviso.
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51. Penalty for confining the mouths of calves.
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54. Public scales and weights to be taken care of: rent of scales.

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55. Wagons, &c., how to be placed in markets: proviso.
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57. Streets not to be obstructed: proviso: bacon carts prohibited from passing through streets on Sabbath: penalty.
58. Location of horses, vehicles, &c., at auction hours.

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75. Limits of Centre market.
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87. Limits of Fell's Point market.
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90. Limits of Hanover market.

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91. Limits of Hollins street, Cross street and Richmond markets.

LEXINGTON MARKET.

92. Limits of Lexington market: proviso: wagons, &c.: penalty.

STATUTES.

P. L. L., art. 4 sec. 631. Corporation may erect and regulate markets.

1. The mayor and city council have power to erect and regulate markets.[1]

Ibid, sec. 632. Penalty for buying to sell again in market

2. If any person shall buy, or cause to be bought, any kind of vegetables, dead meat, poultry, butter, cheese, tallow, eggs or fish, in any of the markets of said city, or within ten miles

[1] As early as 1751, when there were but twenty-five houses, four of brick, in Baltimore town, a subscription was taken up to erect a market house. But a lot was not selected till 1763, (see 1765, c. 34,) when the corner lot on the north of Baltimore street and west of Gay street was leased for a market, at about fifty dollars per annum. In 1784 the market house, erected on above lot, was sold, and a space intended originally for a canal or dock, on Harrison street, was appropriated for the purposes of a market. About the same time, another market house was erected on the northwest corner of Hanover and Camden streets,

thereof, with an intent to sell the same again in such markets or city, or within two miles thereof, he shall for the first offence forfeit the article, or the value thereof; for the second offence he shall forfeit the article and be fined four dollars, and for every other offence forfeit fifteen dollars, to be recov-

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and another on Fell's Point, (see 1784, c. 62, and 1785, c. 33, Dugan vs. Mayor, &c., 5 G. & J., 357.) The Lexington market was erected by the Western precincts in 1803, (see 1803, c. 76,) and another was provided for the Eastern precincts in 1807, and erected in 1819, (see 1807, c. 160, and 1817, c. 148.)

The city of Baltimore has authority "to erect and regulate markets," and "to prevent and remove nuisances." Ordinances were passed in 1853, (No. 16, March 4, 1853, and resolution No. 246, September 10, 1853,) to re-build one of the old Belair market houses, and to erect a temporary one for the use of the public till the new one was completed. After the old building had been taken down and the temporary one put up, a hole was dug within the limits of the market by persons who had no business there, into which the plaintiff fell during market hours and was injured. The hole was about twenty feet from a flat outside the old market house, but within the limits taken for the new one, where hucksters were accustomed to sell, and, at the time were selling vegetables against the orders of the market master, who had warned them off—the limits of the new market were indicated by a furrow, along which granite stones were placed for the work, which with the timber placed at one end was intended as obstructions to keep people off. The plaintiff sued the city to recover damages for injuries sustained by falling into this hole. Held:

1st. That the action could not be maintained on the ground of negligence in the city or its agents, in removing the old house; the owner or person in charge of property undergoing repairs or being built, is not responsible for damages to one who voluntarily goes amid the ruins, having no business there.

2d. The charter places the city, in this respect, on the same footing as individuals and private corporations, and it assumes the duty and the consequence of negligence in its performance of keeping the established markets free from nuisances.

3d. But this liability cannot be enforced when the party injured has not observed ordinary care and diligence, nor when he met his accident at a place which, at the time, was not an authorized market place, or where buying and selling were carried on against public authority.

4th. When the old house was taken down it ceased to be a market place, and the fact that hucksters were selling on the flat as formerly, does not affect the question, because the plaintiff cannot protect himself against the consequences of his own act under cover of the unauthorized acts of others.

5th. If the ground when the hole was dug was the only way by which the plaintiff could reach the temporary market, or if the city authorities had set apart or indicated it as a way thereto, (of which, however, there was no proof,) the city would be liable for negligence, if any, in permitting the way to be obstructed by such a nuisance; but the fact that others used the same route does not make the city responsible to the plaintiff. *Mayor, &c.*, v. *Brannan*, 14 Md., 227. See note under Streets, *post*.

Proviso. ered in a summary way before a justice of the peace; provided that the purchasing pork, beef and fish by the barrel or other package, butter in firkins or other packages not less than fifty pounds, bacon or cheese by the quantity, by any merchant or shop keeper and selling the same again in his store or shop, shall not be deemed or taken an offence against this section.

Ibid, sec. 633. How penalty enforced. 3. Whenever any person shall be found exposing for sale any of the articles enumerated in the last preceding section, otherwise than in his store or shop, and there shall be good cause to suspect they have been purchased contrary to the provisions of the said last preceding section, it shall be lawful for any person to apply to a justice of the peace for a warrant to apprehend the person so suspected, and the justice shall have power to inquire into the offence, and if the person suspected be convicted thereof on the oath of one or more credible witnesses, or if he cannot make it appear to the satisfaction of the justice that he raised or made the articles by him offered for sale, or is disposing of them on account of the person who raised or made them, or that he bought the same ten miles or upwards from the city of Baltimore, he shall be deemed to be an offender against the provisions of the said last preceding section, and the fines and forfeitures shall be recovered in a summary way before the said justice.

Fines and forfeitures.

Ibid, sec. 634. Weight of butter. 4. All butter sold by the pound in the said markets shall weigh sixteen ounces avoirdupois weight; and any person bringing butter to the said markets and offering the same for sale, of less weight than sixteen ounces avoirdupois, shall forfeit the same, and it shall be seized and taken by the clerk of the market and sold for the use of the city.

Forfeited for light weight.

Ibid, sec. 635. Clerks may distrain meat for rent of stalls. 5. The clerks of the market shall have full power and authority to seize by distress any meat upon any stall in the market houses of said city, if the butcher owning such stall shall not pay the rent due thereon; and he shall also collect all fines and forfeitures imposed in the three preceding sections, and account for the same to the mayor and city council.

To collect fines and forfeitures.

6. No charge, tax, or fees shall be set, rated, or levied upon any person, or the property of any person, who shall attend any of the markets of said city, with any articles or produce from the country to vend in said markets, of their own growth, produce or manufacture, or as the agent of the grower, producer or manufacturer of the same, unless such person or persons shall occupy some place or stand in some of said market houses; provided, such person or agent be not a resident of the said city. Ibid, sec. 636. No charge for selling in market unless in stalls. Proviso.

7. If any clerk of the market, or any other person or officer appointed by or under the authority of the mayor and city council, shall demand, receive or collect any tax or other charges from any person or persons attending the markets of said city as provided in the last preceding section, who shall be standing in the open streets, and who do not occupy any place or stand in the market, he shall be liable to a fine of twenty dollars for each offence, to be recovered before any justice of the peace as small debts, one-half to the informer and the other half to the State. Ibid, sec. 637. Penalty for collecting.

8. The mayor and city council may lease, sell or dispose of the stalls and stands in any market, in any manner and for any term they may think proper. Ibid, sec. 638. Corporation may sell or lease stalls.

9. The mayor and city council may contract for, purchase, lease and hold, to them and their successors, in fee simple or for a term of years, renewable from time to time forever, any lands, tenements and their appurtenances in the vicinity of any market, or for the purpose of extending the same. Ibid, sec. 639. Corporation may buy or lease land for purpose of extending markets.

10. They may agree with the owners of any land, or other property which they may deem it expedient to purchase and hold, for the purpose of extending any market, and if they cannot agree, or if there be any incapacity in the owners to contract in relation thereto, or if such owners be unknown or out of the State, any justice of the peace for said city, on application of the mayor and city council, may issue his warrant to the sheriff of said city, commanding him to summon from the said city a jury of twenty freeholders, inhabitants of said Ibid, sec. 640. Power to condemn lands, &c. Proceedings.

city, not related to the owners or persons interested in the real estate or other property, to meet on the premises on some certain day to be named in said warrant, of which said warrant and the day therein named for the meeting of the jury five days' notice shall be given previous to such day by the mayor and city council to every owner or person interested, and left at his place of abode.

Ibid, sec. 641. Infants, lunatics, and femes coverts.

11. If any infant or lunatic or feme covert be the owner in whole or in part of the property subject to be condemned, the notice shall be given to his or her guardian, trustee, committee or husband, as directed in the preceding section.

Ibid, sec. 642. Notice against non-residents.

12. If such owner, guardian, trustee, committee or husband reside out of the State, or is unknown, such notice shall be published not less than eight weeks successively in some one or more of the daily newspapers of said city.

Ibid, sec. 643. List of jurors.

13. The owner of such property, or the guardian, trustee, committee or husband of the owner may, from the list of jurors returned by the sheriff, strike four, and the mayor and city council four, so that the number of jurors may be reduced to twelve, and if either party neglect or fail to strike off the names of jurors, the sheriff or his deputy shall strike for the party so failing or refusing.

Ibid, sec. 644. Oath to jurors.

14. The sheriff or his deputy shall, before the said jury proceed to act, administer to each of them an oath justly and impartially to value the damages which the owners or parties holding an interest in the property to be condemned will sustain, by the use and occupation thereof by the mayor and city council of Baltimore:

Ibid, sec. 645. Duty of jury.

15. The jury so qualified shall inquire into, assess and ascertain the sum or sums of money to be paid by the mayor and city council for the land or other property to be condemned, having regard to all the circumstances of damage or benefit to result to such owner or party interested therein.

Ibid, sec. 646. Inquisition to be returned to clerk of court.

16. The jury shall reduce their inquisition to writing, and shall sign and seal the same, and it shall then be returned by the sheriff to the clerk of the Superior Court[1] of said city, and

[1] See Const, art 4, sec. 28, p. 120, sec. 2, *ante*.

be by such clerk filed in his office, and shall be confirmed by said court at its next session, if no sufficient cause to the contrary be shown, and when confirmed shall be recorded by the said clerk at the expense of the mayor and city council. Confirmation.

17. If said inquisition be set aside by the court, the said court shall direct another inquisition to be taken in the manner hereinafter directed. Ibid, sec. 647. Another inquisition.

18. Every such inquisition shall describe the property taken or the bounds of the land condemned, and the quantity or duration of the interest in the same valued to the mayor and city council, and such valuation, when paid or tendered to the owner or owners of said property, or his or their legal representatives, shall entitle the mayor and city council to the full, legal and equitable title, interest and estate of the owners of said property, estate and interest in the same thus valued, as fully as it had been held by the owners of the same; and the valuation, if not received when tendered, may at any time thereafter be received without interest by the said owners, or his or their legal representatives. Ibid, sec. 468. Description of property. Interest. Title in city. Valuation.

19. If the twenty jurors summoned as hereinbefore directed shall not appear at the time and place appointed, the sheriff or his deputy shall forthwith summon other freeholders of the city, qualified as before directed, to make up the said jury to the number of twelve. Ibid, sec. 649. Summoning jurors.

20. The jurors summoned and attending shall be allowed one dollar per day for their services; the sheriff shall be allowed the same fees as for summoning jurors to the Superior Court, and two dollars a day for each day he or his deputy shall attend upon such inquisition, and such expenses shall be paid by the mayor and city council, except in cases of objection to the confirmation of the inquisition, when the costs in said court may be awarded in the discretion of the court. Ibid, sec. 650. Pay to jurors, sheriff. Costs.

21. The mayor and city council may levy and collect all the costs, damages and expenses awarded as aforesaid. Ibid, sec. 651. Corporation to levy and collect costs, damages, &c.

ORDINANCES.

CLERKS.

No. 27, s. 7, R.O. Clerks to be appointed.

1. There shall be appointed for each of the markets one clerk, and for the Centre and Lexington markets, each, one assistant clerk. The clerks appointed to the several markets shall have full power and authority to take possession, care and charge of the markets to which they are respectively appointed, during their term of office; and they shall attend, unless prevented by sickness or other unavoidable accident or necessity, the markets to which they are respectively appointed, during the market hours hereinafter prescribed, and at such other hours as shall be necessary in order to enforce obedience to all and every the rules directed to be observed concerning such markets.

Ibid, s. 10. Duty of clerks.

Ibid, s. 11. Further duties.

2. It shall be the duty of the clerks of the several markets to prevent all blown, stuffed, unsound or unwholesome provisions from being sold, or exposed for sale within the same, and to weigh and examine all butter, lard and other articles of provisions sold at a given weight, to see that the same are of due weight for which the same are offered for sale, and the same when false, to seize and dispose of, to the highest bidder, for the use of the city, after having been made in roll form; to decide all differences and disputes which may arise in the said markets, to which they are severally appointed, between buyers and sellers, touching the weight and measure of the things there bought and sold, and to try all scales, weights and measures by which any provisions offered for sale in the said markets, are to be weighed or measured, as often as practicable; and all such scales, weights and measures, as are found incorrect, shall be seized by the clerk or his assistant and destroyed, and the owners thereof, or the persons using them, shall forfeit and pay a fine of ten dollars, for each and every offence, one-half for the use of the clerk of the market and the other half to be paid into the city treasury; and to collect all rents of the stalls and shambles in the markets to which they may belong for the use of the city.

3. The said clerks shall cause the markets to which they are respectively appointed, to be swept at least twice in every week, on the days next preceding market days, and have their respective markets cleaned before eight o'clock on Sunday mornings, and on such other days as the mayor may direct, and to remove all dirt, filth and snow from the same as often as may be necessary; and it shall be the duty of the said clerks, when fish are sold, to scrape and wash the benches and scrub and wash off all filth from the pavements and gutters, so as to make the said fish market as clean as practicable, or cause the same to be done, before five o'clock in the afternoon of each and every day the fish are sold therein, under a penalty of five dollars for every neglect or omission.[1] No. 27, s. 13, R. O. Markets to be swept, &c.

4. It shall be the duty of the clerk of the Belair market to assist the assistant clerk of the Centre market in collecting the daily rents at said market, and for said services the sum of one hundred dollars per annum shall be paid to said clerk. Ibid, s. 12, No. 31, Apl. 7, '64. Special duty of clerk of Belair market.

5. The clerk of the Centre market shall have the street on each side of the Centre fish market washed on the afternoons of Wednesday and Saturday, during the herring and shad seasons of each and every year, under a penalty of ten dollars for each and every neglect, one-half of which penalty shall go to the informer. Ibid, s. 14. Special duty of clerk of Centre market. Penalty.

6. Before the clerks aforesaid shall take upon themselves the execution of the trust reposed in them by this ordinance, they shall each give bond, with sufficient security to be approved by the mayor, to the mayor and city council of Baltimore, that is to say: the clerks of the Centre and Lexington markets, in the sum of fifteen hundred dollars each; the clerks of the Hanover, Belair and Fell's Point markets, in the sum of one thousand dollars each; and the clerks of the other markets, in the sum of five hundred dollars each, with conditions thereto annexed, that they will well and faithfully discharge the several duties required by this or any other ordi- Ibid, s. 15. Clerks to give bond. Amount of bonds.

[1] See sec. 142, p. 326 *ante*, as to duty of street superintendents to clean market houses on Sunday morning.

To render accounts.

nance, and that they will render to the mayor on the first Monday in every month, a just and true account of all moneys they may from time to time receive in virtue of their offices, and that they will pay the same to the register, for the use of the city.

Ibid, s. 62. Clerk to cause necessary repairs to be made

7. Whenever any repairs may be required at any of the market houses, it shall be the duty of the clerk of the market, with the approbation of the mayor, to have such repairs made, and the expenses thereof shall be paid out of the proceeds of said market; provided, that the same shall not exceed fifty dollars for each market in any one year.

Proviso.

Ibid, s. 58. Clerks to distrain for rent.

8. The clerks of the several markets shall have full power and authority to distrain and sell any meat, provisions or other articles upon any stall, stand, shamble, bench or place, if the person renting the same or in the occupation thereof shall not pay the rent due thereon.

Ibid, s. 59. Police officers to attend markets and aid clerks.

9. It shall be the duty of the police officers to attend at the several markets of the city, in such order of rotation and subject to such rules and regulations as may be prescribed, and during the prescribed time of such attendance to aid and assist the clerks of the said markets respectively in preserving order therein and enforcing the provisions of this ordinance.

Ibid, s. 49. Clerks to prevent idle or disorderly persons from frequenting market houses.

10. It shall be the special duty of the clerks of the markets, at all times, to prevent idle or disorderly persons frequenting the market houses, and any person or persons who may be found sitting, sleeping or behaving in a disorderly manner, within either of the market houses, or upon the shambles, stalls or benches thereof, shall each forfeit and pay a fine of one dollar for each offence.

Penalty.

Ibid, s. 16. Duties of assistant clerks.

11. It shall be the duty of the assistant clerk of the respective markets to aid and assist the principal clerk in the discharge of the duties imposed on him by law, and preserve order within the limits of the market of which he is an assistant; to collect all the per diem rents from persons occupying unlicensed stalls, stands, benches or places in the mar-

ket of which he is an assistant clerk, and return a true and just account thereof, on oath, and pay over the same to the register of the city on the first Monday in each and every month.

12. If any person shall resist or obstruct any clerk or assistant clerk of a market in the execution of his duty, he or she shall forfeit and pay a sum not exceeding twenty dollars. Ibid, s. 17. Penalty for resisting clerks.

STALLS AND STANDS.

13. It shall be the duty of the clerks of the several market houses in the city, to affix on each stall, stand, shamble and bench in each of said market houses not rented and licensed, a written or printed notice, offering the same for rent, and stating the amount of rent and license which will be charged for the same. Ibid, s. 18. Notice on unrented stalls.

14. The following annual rent shall be imposed and required to be paid in quarterly payments, in advance, for the stalls in the markets, that is to say: in the upper Centre market house, the butchers' stalls shall be at a rent of thirty-two dollars; the permanent benches on the east and west sides, six dollars; and the eave benches, four dollars; in the middle and lower market houses, the butchers' stalls shall be at a rent of sixteen dollars; the permanent benches on the east and west sides, six dollars; and the eave benches, four dollars; in the fish market house, the two middle rows of stalls shall be at a rent of seven dollars; and the two outer rows at a rent of three dollars. In Lexington market houses, the butchers' stalls shall be at a rent of twenty dollars; the permanent benches, four dollars; and the eave benches, two dollars; in the fish market, the two middle rows of stalls shall be at a rent of four dollars; and the two outer rows at two dollars. In the Hanover market house, the butchers' stalls shall be at a rent of eighteen dollars; the permanent benches, three dollars; and the eave benches, two dollars; in the fish market, the stalls shall be at a rent of four dollars. In the Belair market houses, the butchers' stalls shall be at a rent of Ibid, s. 19. Yearly rent of stalls in markets fixed.

twenty dollars; the permanent benches, three dollars; and the eave benches, two dollars; in the fish market house, the two middle rows of benches shall be at a rent of four dollars, and the two outer rows at a rent of two dollars. In the Fell's Point market houses, the butchers' stalls shall be at a rent of twenty dollars; the permanent single benches, three dollars; and the single eave benches, two dollars; the double benches shall be at a rent of six dollars for permanent benches, and four dollars for eave benches; in the fish market house, the stalls shall be at a rent of four dollars. In the Richmond market, the butchers' stalls shall be at a rent of ten dollars. In the Hollins street market, the butchers' stalls shall be at a rent of eight dollars. In the Cross street market, the butchers' stalls shall be at a rent of five dollars.

Ibid, s. 20. Clerks to fix rent of stalls not enumerated

15. The clerks of the several markets, with the consent of the mayor, shall have power to fix the rents of all stalls, stands and benches not enumerated in this ordinance; provided, that said rents shall not at any time be fixed at a lower rate than is now paid for the same.

Ibid, s. 21. Clerk of Richmond market to rent unoccupied stalls.

16. Whenever the purchaser of any butchers' stall in the Richmond market shall not occupy the same, the clerk of the market shall have the right of renting such stall to any person who may apply for its use.

Ibid, s. 41. Moveable stalls &c. to be erected.

17. The mayor is hereby empowered to cause, from time to time, as may be found most expedient and necessary, a number of moveable stalls and permanent fixed benches to be made and erected at the expense of the corporation, and placed on such parts of the limits of said markets as may by him be found most convenient and suitable, and to cause the same to be numbered and rented out to the venders of market articles, by the clerks of said markets, on the terms heretofore established, or which may hereafter be established, for such stalls and benches in such respective markets; and if any person shall wilfully or maliciously break or otherwise injure any permanent fixed bench, moveable or other stall, any person so offending, and every person aiding or concerned in

Penalty for injuring stalls, &c.

such offence, shall forfeit and pay a sum not exceeding twenty dollars for each offence.

No. 24, Apl. 24, '68. Clerks to collect ten cents for numbers of stalls.

18. The clerks or assistant clerks of the several markets shall collect from all dealers, except butchers and bacon dealers, ten cents for each and every number of the stall or stalls occupied by them, on each and every market day or part of a market day.

No. 27, s. 42. R. O. Mode of renting stalls, &c.

19. Whenever the clerk of any market shall rent or hire out any stall, stand, shamble or bench, he shall give to the person or persons obtaining the same a certificate thereof, which shall specify the terms of the tenure, and the number and other description of the stall, stand, shamble or bench; and in case the mayor shall approve of the terms of said certificate, he shall forthwith grant to the person holding the same, a license under the corporation for the stall, stand, shamble or bench described in such certificate for one year and no longer; in which license shall be distinctly expressed the number or other description of the stall, stand, shamble or bench, the market wherein it is situated, and the terms of the tenure; and the comptroller shall keep a record of the name of the person to whom such license shall be granted; and the terms and tenure thereof, in a book to be kept by him for that and similar purposes; and every such license shall, with the approbation of the mayor, be transferable, and shall be evidence of title in the grantee or assignee to the stall, stand, shamble or bench therein mentioned; and the person applying for said license, shall pay therefor to the comptroller five dollars for the use of the city.[1]

Record to be kept by comptroller.

Licenses for stalls transferable.

Rates of licenses.

[1] Under No. 26 of R. O. 1850, secs. 41, 42 and 44, which sections are identical (except that "comptroller" is put for "register" in secs. 19 and 20, of above,) with above sections 19, 20 and 23, it was held, in *Hatch* v. *Pendergast*, 15 Md. 252. 1st. That the payment of the license fee confers on the party the right to use the stand or stall whether a license be obtained or not, but mere payment of rent for a stand, without reference to the license fee does not vest title to the stand. 2d. A paper in the form of a receipt, signed by the market clerk, stating that he had received five dollars for a specific stand, is to be construed as a certificate of payment of the required license fee for the use of the stand. Title to market stands cannot be acquired by possession; every seller must be considered as holding his stand by contract with the city, subject to the market regula-

Ibid, s. 43.
Clerks to make monthly reports to comptroller.

20. It shall be the duty of the clerks of the several markets of the city to report monthly to the comptroller the names of the several persons to whom they may grant certificates; and if any of the persons to whom certificates shall be granted, shall not apply to the comptroller, within ten days after the date of such certificate, such person or persons shall be liable to a fine of five dollars; and it shall be the duty of the comptroller, on the first Tuesday in each month, to furnish the clerks of the several markets, a list of the persons to whom certificates have been granted, and who have not taken out licenses, and it shall be the duty of the said clerks to collect forthwith the amount of the license money due by the granting of said certificates, and to pay the same over to the comptroller.

Duty of comptroller.

Ibid, s. 44.
Renewals of licenses regulated.

21. If any person or persons, to whom any stand, stall or bench shall have been rented in any of the markets, shall continue to occupy the same, and shall neglect to renew his, her or their license and certificate, or refuse or neglect to pay the rent due on such stand, stall or bench, such person or persons shall be liable to a fine of two dollars; and it shall be the duty of the clerk of the market in which such delinquent stand, stall or bench shall be situated, to take possession of the same, within ten days from the expiration of such license, in the name of the mayor and city council, and proceed as provided in the succeeding section.

No. 55, Sept. 30, '58.
Public sale of stalls.

22. When any stall shall become vacant by the failure of the tenant to renew his, her or their certificate or license, or rent due on such stand or stall for ten days, the same shall be disposed of on the succeeding market day at eleven o'clock, A. M., at public sale; the clerk having posted at least twenty-four hours' notice before such sale, within the limits of said market, by an advertisement setting forth the same;

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tions and not adversely to its authority. If difficulty arise between the holders of certificates of contiguous stands, the limits of which are not defined on the pavement, it is the duty of the market clerk to interpose and determine their respective rights, and if necessary, to call the police to his aid in preserving order and peace in the market.

and the proceeds of such sale shall be paid over to the register of the city.

Ibid, s. 45. Clerks forbidden to rent places to offenders against ordinance.

23. The clerks of the respective markets are hereby prohibited from letting or hiring any part of the said markets, or any stall, stand or bench therein, to any person or persons whom they have good reason to suspect of offending against the provisions of this ordinance; and they shall not rent any stall, stand, bench or place, in any market within the city, to any person or persons who shall not intend to occupy the same during the term of the said renting; and no more than one stall, stand, bench or place, shall be rented to any one person, unless said person shall satisfy the clerk of his or her intention to occupy the same as a place of business in the said market; and no person shall assign any license for any stall, stand, bench or place, without the consent of the clerk of the market in which it is situate; and the said clerk shall not assign any license when the person or persons to whom it is proposed to assign, shall be required to pay a greater rent than was paid by the person to whom the license was first granted; provided, that nothing herein contained shall be made to apply to any stall which is owned by any person or persons in the said market; and it shall be the duty of the said clerks, respectively, to remove and drive off any person using or occupying any stall, bench or stand in any of the said markets contrary to the true intent and meaning of this ordinance.

Persons having licenses not to rent stalls.

Duty of clerks.

Ibid, s. 46. Vacant benches may be occupied.

24. Any person bringing provisions or articles of any description not prohibited, to the several markets for sale on market days, during market hours, shall be authorized to occupy any vacant permanent bench, moveable stall, or any other stand or place, (except butchers' stalls,) on paying for the use of the city, to the clerk or his assistant, the sum of twelve and a half cents for each day, or part of a day, he, she or they shall occupy the same; provided, however, that the permission granted by this section shall not be construed to allow any meats or other cooked provisions of any kind whatever, to be sold or exposed for sale, on any permanent

Proviso.

or eave bench in the Lexington or Centre markets, unless such permanent or eave bench be located as prescribed by ordinance.

Ibid, s. 38. Limits for butchers' stalls beyond which impediments not to be placed.

25. Two rows of bricks, on edge, along the entire line of the inside of Centre, Lexington, Hanover, Fell's Point and Belair market houses, at the distance of six feet from the inner side of the stands occupied by the butchers, shall be designated as a line beyond which no person shall be allowed to place any impediment, under a penalty of ten dollars for each offence.

Ibid, s. 39. Limits for other stalls.

26. Two rows of bricks, on edge, along the entire line of the sheds attached to the Centre, Lexington, Fell's Point, Belair and Hanover market houses, at the distance of two feet from the benches, so as to form an avenue in the centre, between the inner and outer benches, for the accommodation of persons visiting the several markets, shall be designated as a line beyond which no person shall place any impediment, under a penalty of two dollars for each offence.

Ibid, s. 48. The erection of certain structures prohibited.

27. It shall not be lawful for any person or persons to erect or cause to be erected any permanent wooden frame or structure upon the outside stalls of the market houses, or to use the same, under a penalty of five dollars for each offence; and

Duty of clerks.

the clerks of the several markets are hereby directed to give notice to the owners of such frames or structures as are now erected, to remove the same, and if said notice is not complied with within ten days thereafter, the said owner or occupant shall pay the penalty of five dollars, and the further sum of five dollars for each day the same shall be permitted

Proviso.

to remain after the expiration of said notice; provided, that this section shall not be construed to affect any regular market bench; and provided further, that nothing contained in this section shall apply to any frame structure now erected on the outside stalls of the several fish markets, and used by venders of cheese and confectionery.

Ibid, s. 52. Butchers' closets regulated.

28. No butcher or butchers shall erect or cause to be erected, under his or their respective shambles, any box or closet, unless the same be raised four inches above the pavement,

under a penalty of five dollars for each and every week such box or closet may remain under said shambles.

29. The division line between the butchers and the occupiers of benches behind the shambles, shall be drawn six inches from the inner edge of one pillar, to six inches from the inner edge of another; and no butcher shall hang any meat or other thing, or place any fixture on the outside of said line, nor shall any occupier of any of said benches hang any meat or thing, or place any fixture on the inside of said line, and every person offending herein, shall forfeit and pay a sum not exceeding five dollars for each and every offence. Ibid, s. 53. Limits of benches regulated.

30. All blocks, benches, tubs or other things used in the markets for the accommodation of butchers, whilst occupying the shambles, shall be placed and kept within the limits of the shambles by them severally occupied, and in such manner as not to extend into the market house further than four feet beyond the inner edge of their respective shambles; and every butcher, to prevent nuisances, shall collect, secure and carry away, or cause to be removed from the limits of the market, all heads, feet, pluck or other offal, that are or may be within the limits of his shamble or bench, under a penalty of five dollars for each offence; and all meat, roots, herbs and vegetable provisions offered for sale under the extended sheds of said markets, and all tubs, baskets and other things used in said market for the accommodation of the sellers, shall be placed by the several and respective owners thereof, so as not to extend beyond the edge of the benches on the one side, nor within the range of posts on the other side, to the interruption of the purchasers passing and repassing under the said extended sheds; and if any person having charge of any tub, bench, meat, roots, herbs, or vegetable provisions, or other things, as aforesaid, shall cause or suffer the same to be placed or remain otherwise than is hereinbefore mentioned and directed, every person so offending shall forfeit and pay for every offence two dollars; nor shall any person occupying any eave bench, under the like penalty for every offence, ex- Ibid, s. 55. Regulations for occupiers of benches, &c.

tend or enlarge the same by any permanent or temporary fixture beyond the curb stone.

No. 404, Sept. 30, '67. Fruit and vegetable stands.

31. Permission is hereby given to dealers in fruit and vegetables occupying stands in the different markets of the city, to continue in use their stands during the day, (Sundays excepted,) during the fruit season.

SALES, LICENSES, &C.

Ibid, s. 22. Meat not to be sold except on butchers' stalls.

32. No person shall sell any meat in any part of or about any of the market houses in the city within the limits of any of the markets, other than the regularly licensed butchers' stalls inside of the markets, under a penalty of ten dollars for each and every offence; provided, that nothing herein contained shall prevent any farmer from selling in any market meats which are exclusively products of his own farm, nor to prevent bacon sellers from making such sales as shall be authorized by license.

Proviso.

Ibid, s. 23 Sale of unsound meats prohibited.

33. No person shall sell or expose to sale, in any of the markets aforesaid, or elsewhere within the limits of the city, any blown, stuffed, unsound or unwholesome meat, or articles of provision, or measly pork, or stale or unsound flesh, under the penalty of twenty dollars for each and every offence; one-half of the said penalty to be paid to the informer, and the other half to be paid into the city treasury.

Ibid, s. 24. Mode of weighing.

34. All flesh, flour and other provisions sold by weight, shall be weighed by scales and weights, or patent balances, duly stamped, regulated by the officers appointed for that purpose—such scales and weights or patent balances to be provided by the seller; and if any person shall be guilty of selling by steelyards, or by unjust weights, false measures, or scales falsely balanced, he or she shall pay a fine of five dollars for each and every offence.

Ibid, s. 25. Animals, &c., not to be driven on brick pavements. Killing, &c., in markets prohibited.

35. No person shall lead, ride, drive or bring into any of the market houses, or on the brick pavement of the same, any horse or other beast, wagon, cart, wheelbarrow, or any other carriage whatsoever, or kill or slaughter within the limits of

any of the markets, any beast, or gut or cleanse any fish, or lay, throw or deposit any dirt, filth, dung, garbage or offal therein, under the penalty of two dollars for each and every offence.

Ibid, s. 26. Cows not to be brought in market during market hours.

36. If any person shall lead, drive or place any cow within the limits of any of the markets during market hours, every person so offending shall forfeit and pay the sum of two dollars for every such offence.

Ibid, s. 27. Sale of merchandise, &c., prohibited.

37. Any person who shall sell or offer for sale, within the limits of any of the markets aforesaid, any merchandise or clothing of any description whatever, or any other article except eatables, or shall during market hours, offer for sale any china, glass or earthenwares within the limits of any of said markets, or on the sidewalk, or bed of any street or alley within one square of the limits of said market, shall, for each and every offence, pay a fine of not less than five dollars, or more than ten dollars; provided, that this section shall not affect any gardener or farmer bringing any articles of his or her household manufacture to sell on his or her stand, stall or place. Proviso.

Ibid, s. 28. Females whose stock in trade does not exceed forty dollars may sell merchandise in markets.

38. Nothing in this ordinance contained, forbidding the sale of any manufactured goods, wares and merchandise within the limits of the markets, shall be construed to extend or apply to any female bona fide engaged in the business of selling on her own account, whose stock in trade offered for sale within the limits aforesaid, shall at no time exceed the sum of forty dollars in value; provided, such female shall have procured a license therefor from the city comptroller, and shall have paid for the same the sum of five dollars as the annual rate thereof.[1] Proviso. License.

Ibid, s. 30. Hucksters to occupy only certain parts of markets.

39. It shall not be lawful for any huckster or any person living in the city and dealing in the articles of butter, eggs or poultry, or either of them, to dispose of or offer for sale, either as principal or agent, any article except within those parts of the limits of the several markets which may be de-

1 Sec. 29 of No. 27, R. O., is repealed by No. 24, Apl. 24, '68.

signated for that purpose by the mayor, and which shall be, if in the Centre market, south of a line commencing at Jones' falls, and running westwardly, bounding on the south side of fish market space, until it intersects the west side of Centre market space; if at the Lexington market, west of the west side of Paca street; if at the Hanover market, out of Hanover street and that part of the market house fronting thereon.

Ibid, s. 31. Dealers in certain articles from carts, &c., to obtain licenses.

40. It shall not be lawful for any person to sell or offer for sale from any cart, wagon or other vehicle, within the limits of any market within the city, any cheese, or salted or cured meat, without having obtained from the comptroller, who is hereby authorized to grant the same, a license, for which dealers in salted or cured meat shall pay fifty dollars to sell in the several markets of the city; provided, that said license shall not confer the right to sell in any more than one market at the same time, nor out of more than one cart, under a penalty of ten dollars for each and every offence; and dealers in cheese or salted codfish or salmon, or any cut or broken pieces thereof, to pay ten dollars for a license to sell in the market therein named; and any person or persons selling or causing to be sold any cheese within the limits of any market whatever in the city, without having first obtained a license so to do, shall forfeit and pay the sum of three dollars for each and every such offence; and provided further, that nothing contained in this section shall be construed as extending to farmers selling the produce of their farms.

Proviso.

Proviso.

Ibid, s. 32. Dealers in cheese, &c. to occupy certain parts of markets.

41. No dealer in cheese, or in salted, cured or dried fish, shall occupy any stand or stands in the Centre, Lexington, Hanover or Fell's Point markets, other than such as shall be designated for such use by the clerks of said several markets, with the approbation of the mayor, which stand or stands so designated by the said clerks, shall be confined to the following limits; that is to say—in the Centre market, to the fish market; in the Lexington market, to the north side of the market house, and west of Paca street; in the Hanover market, within the interior space on either side of the fish market; and in the Fell's Point market, to the eave stalls

or permanent benches in the lower part of the southern market house.

Ibid s. 33. Sausages, &c. not to be sold in markets without license.

42. It shall not be lawful for any person to sell or offer for sale, within the limits of any of the markets in the city, any puddings or sausages, without having first obtained from the comptroller a license, to expire on the first day of May in every year; for which he shall receive the sum of five dollars for each and every market; and every person offending against the provisions of this section, shall forfeit and pay a penalty of five dollars for each market day he or she may attend; and it shall be the duty of the clerks of the markets at the several markets of the city, to see that the provisions of this section are complied with and enforced; provided, that the provisions of this section shall not apply to butchers selling under a license in the inside of the market house; and provided, also, that it shall not apply to farmers selling such articles, the produce of their farms.

Penalty.

Duty of clerks of markets.

Proviso.

Ibid, s. 34. Dealers in meal or flour to obtain licenses.

43. It shall not be lawful for any person to sell or offer for sale, from any cart, wagon or other vehicle, within the limits of any market within the city, any meal or flour of any kind, without first obtaining from the comptroller a license, for which said dealers in meal or flour of any kind shall pay ten dollars to sell in the several markets of the city; provided, that said license shall not confer the right to sell in any more than one market at the same time, nor out of more than one cart, under a penalty of twenty dollars for each and every offence; and provided further, that nothing herein contained shall be construed as extending to farmers selling the produce of their farms, or to the manufacturers of meal or flour.

Proviso.

Ibid, s. 50. Sale of fresh meat regulated.

44. It shall not be lawful for any person to sell or offer for sale, within the limits of any of the markets of the city, except on the butchers' stalls, any fresh meat, in pieces less than a quarter, under a penalty of ten dollars for each and every offence.

Ibid, s. 51. Sale of wine, &c. prohibited.

45. No person or persons shall, at any time, sell or expose for sale, within the limits of either of the markets, any wine

or spirituous liquors of any kind, under a penalty of five dollars for each and every offence.

No. 27, s. 64, R. O.; No. 8, Apl. 3, '67. Time and place for the sale of horses, &c. designated.

46. Swan street, running from the east side of Centre market to the falls, is hereby appropriated for the purpose of the public sale of horses, mares and geldings, and vehicles to which they may be attached, on Wednesday and Saturday of each week, from eleven o'clock in the morning until three o'clock in the afternoon; and it shall not be lawful for any person or persons to use said street for the purpose of a horse market on any day in the week except the days herein named, under a penalty of ten dollars for each and every offence; and if any person or persons expose for public sale in any other of the streets, lanes or alleys of the city, any horse, mare or gelding, he, she or they so offending, shall forfeit and pay a sum not exceeding five dollars for each and every offence.

Horses, &c. not to be sold in any other street.

No. 27, s. 65, R. O. Cows, &c. not to be sold in streets.

47. It shall not be lawful for any person to expose or offer for sale, in any of the streets, lanes or alleys of the city, any cow or other neat cattle; and that any person offending therein shall forfeit and pay a sum not exceeding two dollars, nor less than fifty cents for each and every offence.

Ibid, s. 66, Penalty for muzzling calves.

48. Whenever cows with calves may be exposed or offered for sale, and it may be necessary to confine one or the other with cords or otherwise, the calf only shall be confined, under a penalty not exceeding three dollars; and any person who shall muzzle or tie the mouth of any calf to prevent it from drawing from the cows its natural and accustomed food, shall forfeit and pay a sum not exceeding five dollars, nor less than three dollars.

Ibid, s. 67, Tax on sale of cows, &c.

49. The owner or owners of any cow or cows, with or without calves, or any other neat cattle, shall pay to such persons as shall be appointed to receive the same, the sum of thirteen cents on each and every head of cattle so exposed or offered for sale, or which may be taken to the lot enclosed for that purpose; provided, that no charge shall be made for a calf when accompanied with a cow.

Proviso.

No. 53, May 10, '65.
Unlawful to slaughter calves under four weeks' old.

50. It shall not be lawful for any person or persons to slaughter any calf, and expose said slaughtered calf for sale at any of the markets, or elsewhere, within the limits of the city, at a less age than four weeks, and of less weight than fifty pounds net weight, under a penalty of twenty dollars—one-half to go to the informer, and the other half to the use of the city.

No. 27, s. 69, R. O.
Penalty for confining the mouths of calves.

51. It shall not be lawful for any person to burn, sear or cut the inner part of the mouth of any calf, or while passing through or standing in the streets or market places of the city, to confine or cause to be confined, the mouth of any calf by rope, twine or any kind of muffle placed over the mouth or otherwise of such calf; and every person so offending, shall for every such offence forfeit and pay the sum of five dollars.

Ibid, s. 60.
Auctions prohibited in market during market hours.

52. No person or persons shall place or expose for sale, by auction, any goods, wares or merchandise, or furniture of any kind, within the limits of the several markets of the city, on market days during market hours, under a penalty not exceeding twenty dollars for every such offence.

Ibid, s. 61.
Goods not to be placed on footways.

53. It shall not be lawful for any person to offer at public sale, or place on the footway or brick pavement, goods of any description, at either side of any market in the city, without permission first had and obtained from the mayor, under the penalty of not less than five nor more than fifteen dollars for each and every offence.

Ibid, s. 57.
Public scales and weights to be taken care of.

54. The mayor is hereby authorized to contract with and employ some suitable person, under such security and upon such terms as he may think proper, to take charge of the public scales and weights, who shall receive for the use of the corporation, for every draught weighed by him, from the person applying therefor, such sum as the mayor shall fix, and pay over the same to the register once in every week; but the mayor is hereby authorized to rent from year to year, upon the best terms he can procure, the said scales if he shall think proper so to do.

Rent of scales.

WAGONS, &C.

Ibid, s. 35. Wagons, &c., how to be placed in markets.

55. All wagons, carts and other carriages attending the market on market days, shall be placed within the limits of the market during market hours, and shall be arranged in such manner as the clerk of the market shall direct; provided, that in case all such wagons, carts and other carriages cannot be so arranged in one row, the residue may be placed in such parts of the adjoining streets, and in such manner as the clerk of the market shall deem right and proper; and any person offending herein shall forfeit and pay one dollar for each and every offence.

Proviso.

Ibid, s. 36. Vehicles, horses, &c. in markets regulated.

56. No more than two horses or other beasts of draught shall remain fixed to any wagon or sled, nor more than one horse or beast of draught to any cart or other carriage, and that no wagon, cart or other carriage, loaded with wood, stone, brick, hay, dirt, lime or lumber, or merchandise of any kind, no empty wagon, cart, or other carriage, and no hackney carriage shall be drawn or placed in the limits of either of the markets during market hours on market days: and that no horses or other beasts of draught, not fixed to a wagon or other carriage, and no unloaded horse shall be permitted to enter or remain within the said limits during the hours and days aforesaid, except those living within the said limits going to or from their premises; but this shall not apply to any farmer who, having disposed of his produce, may wish to leave the market; and any person herein offending shall forfeit and pay one dollar for each and every offence; provided, that nothing in this section shall be so construed as to prevent any person or persons riding or driving any horse or horses, fixed or not fixed to a wagon or other carriage, across the Centre market space, at the intersection of Lombard street and market space, or Pratt street and market space, which intersection shall be kept open for the said purpose; and any person or persons obstructing the streets within the limits of the several markets, at any time not designated by law as the market hours of such market, shall forfeit and pay a fine of five dollars.

Proviso.

Penalty.

57. It shall not be lawful for any person or persons to place on the streets of the market houses of this city, any wagon, cart or other carriage, or any barrel or barrels, box or boxes, or other articles, upon any day (Saturday excepted,) after four o'clock in the afternoon, between the first day of October and the first day of April, and after six o'clock in the afternoon between the first day of April and the first day of October, of the day previous to the regular market days, the same to be removed before three o'clock in the afternoon of such market day, under a penalty of ten dollars for each and every offence; provided, that nothing in this section shall be so construed or applied to bacon sellers, as to prevent them from driving directly from one market to another, and occupying their respective stands in such market; and that nothing herein contained shall be so construed as to allow the bacon carts or others to occupy their stands, or to remain on any of the streets, lanes or alleys, or to pass through any of the streets, lanes or alleys of the city on the Sabbath day, under a penalty of five dollars for each offence.

Ibid, s. 37. Streets near market not to be obstructed. Proviso. Bacon carts prohibited from passing through streets on Sabbath. Penalty.

58. No person shall place any horse or beast of burden within five feet of any wagon, cart or other vehicle, or within two feet of any of the flag-stones within the limits of any of the markets, after five o'clock in the afternoon of the day preceding market days, or during market hours, under a penalty of two dollars for each offence.

Ibid, s. 40. Location of horses, vehicles, &c. at certain hours.

59. If any butcher or person employed in vending meat or vegetable provisions shall bring or cause to be brought on market days within the limits of said markets, any cart or other carriage within market hours, every person so offending shall forfeit and pay a fine not exceeding two dollars.

Ibid. s. 56. Penalty for bringing carts, &c. into the market.

60. The avenues or footways for the passing of all persons from the shed parts of the market houses to the places assigned for the stations of the wagons, shall be kept open, so that the same may be severally opposite to the several avenues of the brick buildings; the said avenues, and all other avenues or footways of said market houses, shall be

Ibid, s. 54. Avenues, &c. to be kept open.

kept free and clear of and from all obstructions whatsoever, under a penalty of one dollar for each and every offence.

PLATS, &C.

Ibid, s. 63. Plats of markets to be made.

61. A plat embracing the entire limits of each market shall be provided by the mayor, distinguishing the numbers of the respective stalls, shambles, benches, stands and places, and a copy thereof shall be kept by the register and another by the clerk of the market, and the expenses of providing the same shall be defrayed out of the incidental fund.

Ibid, s. 70. Water not to be drawn from Fell's Point reservoir for shipping purposes.

62. It shall not be lawful for any person to fill or cause to be filled with water, drawn from the reservoir situate between the market houses on Fell's Point, any barrel, hogshead, or other water cask whatsoever, for shipping purposes, under a penalty not exceeding twenty dollars for each and every offence.

Ibid, s. 71. Penalty for defacing market houses, &c.

63. If any person shall deface any portion of any market house, or any appendage thereto, or shall cast or throw any stone, brick or any other missile, or place any trestle or other lumber on the roof of any market house, or any shed or other appendage thereto, or climb on or walk upon the roof of the same, each and every person, for each and every such offence, shall forfeit and pay a sum not exceeding five dollars, one-half to be paid the informer, and the other half to be paid into the city treasury.

Ibid, s. 72. Rights of property holders.

64. Nothing in this ordinance shall be so construed as to affect the rights of property holders or tenants within three feet of the building line.

Ibid, s. 47. Cooking in markets prohibited.

65. It shall not be lawful for any person or persons to cook any meat or other victuals within the limits of any of the market houses, under a penalty of five dollars for each offence.

MARKET DAYS AND HOURS.

No. 27, s. 8, R. O. 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; and Wednesday and Saturday at the Centre and Hollins street markets, and also Saturday evenings at each of said markets.[1]

Ibid, s. 9: No. 44, June 2, '62; No. 47, July 2, '60.

Market hours.

67. The market hours at the Centre, Lexington, Belair, Hollins street and Hanover markets, shall begin at daylight and end at eleven o'clock in the forenoon, during the months of October, November, December, January, February and March, and begin at six o'clock A. M. and end at half past ten o'clock in the forenoon during the remainder of the year; the market hours at Fells' Point market shall begin at daylight and end at twelve o'clock noon, during the months of October, November, December, January, February and March, and end at eleven o'clock in the forenoon during the remainder of the year; the market hours at the Richmond market shall begin at two o'clock and end at six o'clock in the afternoon; the market hours at Cross street market shall begin at daylight and end at eleven o'clock in the forenoon during the months of October, November, December, January, February and March, and end at ten o'clock in the forenoon during the remainder of the year; and for the Saturday evening market, the market hours at all the markets hereinbefore named shall begin at sunset, and end at eleven o'clock in the evening, except the Fell's Point and Belair markets, which shall begin at three o'clock and end at eleven o'clock; the Hollins street market, which shall begin at two o'clock and end at ten o'clock, and the Cross street market, which shall begin at three o'clock and end at ten o'clock.

SALARIES.

No. 19, Mar. 24, '66; No. 12, Mar. 2, '66; No. 37, June 14, '65; No. 26, Apl. 1, '64.

Salaries of officers of markets.

68. The several officers mentioned below shall receive as a compensation, the annual salaries hereinafter allowed them.

The clerk of the Centre market, four hundred and fifty dollars.

The assistant clerk of the Centre market, three hundred and fifty dollars.

[1] The market days above for the Centre, Hanover and Fell's Point markets were established in 1784. See acts of 1784, c. 62, and 1785, c. 33.

Salaries, &c.

The clerk of the Lexington market, four hundred and fifty dollars.

The assistant clerk of the Lexington market, three hundred and fifty dollars.

The clerk of the Hanover market, four hundred and fifty dollars.

The clerk of the Fell's Point market, four hundred and fifty dollars.

The clerk of the Bel-Air market, four hundred and fifty dollars.

The clerk of the Richmond market, two hundred and fifty dollars.

The clerk of the Hollins street market, five hundred dollars; provided that it shall be the duty of said clerk, in addition to the duties now performed by him, to take full charge of the hall over said market, to keep said hall in a cleanly condition, and to light up said hall when necessary.

The clerk of the Cross street market, three hundred dollars.

The cleaner of the Lexington market, four hundred and eighty dollars.

The cleaner of the Centre market, four hundred and eighty dollars.

The cleaner of the Bel-Air market, three hundred dollars.

The cleaner of the Hanover market, three hundred dollars.

The cleaner of the Fell's Point market, three hundred and sixty dollars; provided that it shall be the duty of said cleaner to clean both the old and new market-houses, and to take charge of and keep in a cleanly condition the lamps in and around said market, and light the same.

The cleaner of the Hollins street market, one hundred and twenty dollars.

The cleaner of Richmond market, one hundred and twenty dollars.

The cleaner of Cross street market, fifty dollars.

BELAIR MARKET.

69. The limits of the Belair market shall include the market house and the space on each side thereof, and Forrest street from the market space eastwardly to Douglass street, and from the market space, westwardly to Hillen street, and the width of Hillen street, northwardly to Monument street; the limits of the said market to be subject to the provisions regarding footways, prescribed by section 75, hereinafter.[1] No. 27, s. 5, R.O. Limits of Belair market.

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[1] No. 32, May 19, '65, authorized the building of an additional market house at the Belair market. It further provided, that the comptroller should, on the completion of the market house, proceed to sell in perpetuity all the permanent stalls in the same at public sale to the highest bidder; provided that he might, in his discretion, withdraw any stall or stalls should the bid be less than he deemed to be the value of the same, and that the rent of the said stalls should be regulated and fixed by him, at such prices as in his judgment were fair and equitable; and that the said market house shall in all respects be governed by the ordinances of the mayor and city council of Baltimore.

By the act of 1843, c. 309, the Belair market space was extended in the following manner, that is to say: beginning for one side of the said extension on the northeast side of North Gay street, where the southwesternmost side of the present Belair market space, if continued, would intersect the northeast side of Gay street, and running thence northerly with the same range of the Belair market space, until it intersects the southwesternmost side of Forrest street; and beginning for the other side of the said extension on the northeast side of North Gay street, at the distance of Forrest street, northerly from where the northeast line of the said Belair market space, if extended, would intersect the said northeast side of Gay street, and running thence northeasterly parallel with the first described line, until it intersects the west side of Forrest street, and all the grounds contained within the said lines of Gay street, and forty feet, and Ensor street are added to and included in the Belair market space.

By 1844, c. 224, the mayor and city council were authorized to proceed to condemn and appropriate, for the purpose of extending the Belair market space, the property embraced within the following description, viz: beginning for the southwesternmost side of said contemplated extension, at a point on the northwest side of North Gay street, where the southwest side of the present Belair market space, if extended, would intersect the northwest side of North Gay street, and running northwesterly with the same range of the said market space, until it intersects the southwest side of Forrest srteet, and thence with the southwest side of Forrest street to the southernmost intersection of Forrest and Hillen streets; and beginning for the northeasternmost side of said contemplated extension, at a point forty feet northeasterly, on the northwest side of North Gay street, from where the northeasternmost side of the present market space would intersect the said northwest side of North Gay street, if extended, and running thence northwesterly until it intersects the southeasterly side of Hillen street, at a point one hundred and sixty feet from the southeasternmost corner of Forrest and Hillen streets.

BROADWAY MARKET.

No. 30, May 6, '65.
Keeper of hall over Broadway market.
His duty.

70. It shall be the duty of the mayor, with the approbation of the city council, to appoint a keeper for the hall erected over the Broadway market, whose duty it shall be to have charge of said hall, subject to the ordinances, rules and regulations which may hereafter be prescribed by the mayor and city council; and whose further duty it shall be to assist the clerk of the Broadway market in the performance of his duties in said market on market days.

Ibid, s. 2.
Salary.
Expenses.

71. The compensation of the aforesaid keeper shall be four hundred dollars per annum, and the register is hereby directed to pay to the said keeper the sum of one hundred dollars per annum, or so much thereof as may be necessary, for brooms, soap and other articles to be used in cleaning said hall.

Ibid, s. 3.
Penalty.

72. For all violations of the above provisions, or interference with the keeper in the execution of his duty, the penalty shall be the same as is prescribed in this article for the regulation of markets.

Ibid, s. 4.
Defacing, &c. hall.
Penalty.

73. It shall be the duty of the clerk of the Broadway market, and the keeper of the hall, to prevent the defacing, mutilating or injuring the walls or any portion of the hall erected over the Broadway market in any manner whatever; and any person or persons wilfully defacing, mutilating or injuring the

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By Res. No. 332, June 26, '68, the comptroller is authorized and directed to contract with and purchase from the owners the lot of ground and improvements now erected thereon, (beginning for the same at the corner of Forrest and Low streets, binding on the south side of Low street 41 feet, and running thence parallel with Forrest until it intersects Friendship street; thence along Friendship street to Forrest; thence along Forrest street to the place of beginning,) for the purpose of the further extension of the Belair market; and on the execution of the proper deeds and transfers to the city of Baltimore, approved by the city solicitor, the register is authorized to pay the amount agreed upon for the same, and to meet the said payments, the sum of twenty thousand dollars, or so much thereof as may be necessary, is appropriated.

walls, or any portion of said hall, shall be subject to a fine of five dollars for each and every offence.[1]

CANTON MARKET.

74. The rent of the butcher stalls shall be fixed at ten dollars per annum, payable quarterly in advance; the eave stalls at one dollar, and the bench stalls at two dollars per annum, payable in advance, as also the usual license; subject to all ordinances, resolutions, rules and regulations which now are or may hereafter be passed, regulating markets.[2]

No. 4, Dec. 6, '59. Rents and licenses of stalls

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[1] The Broadway market house was erected under Ordinances, Nos. 30, Ap'l 7, '64, and 79, June 9, '64, on the vacant space of ground on Broadway, between Canton avenue and Alice Anna street. No. 30 authorized the comptroller to rent the public hall in the upper story, and to sell in perpetuity all the permanent and moveable stalls in the same, at public sale, to the highest bidder, for cash; provided he might, in his discretion, withdraw any stall or stalls, should the bid be less than he deemed the value of the same, and that the rent of the said stalls should be regulated and fixed by him, at such prices as in his judgment best promote the interests of the city and the prosperity of the market.

No. 30 further provides that the said market house shall in all respects be governed by the ordinances of the mayor and city council in relation to markets.

[2] The comptroller was authorized by this ordinance to sell in perpetuity all the stalls in the Canton market house, at either public or private sale, to the highest bidder.

The Canton market house was erected under Ordinance No. 99, July 14, '59, which provides that on the execution of a deed to the mayor and city council of Baltimore by the Canton Company of Baltimore, of all that piece or parcel of ground in the city of Baltimore, lying in the centre of O'Donnell street, and seventy-five feet in width, and extending from Patuxent street a distance of about three hundred and forty feet eastwardly to Potomac street, to be used forever as a public market, the city commissioner is authorized and directed to have constructed on the east end of the lot, a market house (similar to the market house on the ——— of the Lexington market,) to be sixty feet wide and one hundred and fifty feet long; said market house to be built of the best materials, and in a good and workmanlike manner—the contract to be awarded to the lowest responsible bidder, after advertising in two of the daily papers for the space of two weeks, according to ordinances of the city.

It further provides that said Canton market shall in all respects be governed by the ordinances of the mayor and city council in relation to markets.

The Canton Company engages that it will not, at any time, rent or lease any part of its property to be used as a market house.

CENTRE MARKET.

No. 27, s. 1, R. O. Limits of Centre market.

75. The limits of the Centre market shall be as follows: beginning with the curb stone on the south side of Baltimore street and running southerly the whole width of market space to Pratt street, and from the east line of the space east with the fish market space and the width thereof to Jones' falls; also, from the west line of the first named space west on Second street, within the curb stones, to Frederick street, and north from Baltimore street, on Harrison street, and within the curb stones, to the bend in said street; provided, however, that nothing herein contained shall be construed to interfere with the rights and privileges of the occupier or occupiers of any of the houses on the spaces above mentioned, or with the free passage of the footways; and provided, also, that nothing in this ordinance contained shall be construed to authorize the placing of stalls, stands or benches on any footway.

Proviso.

No. 13, Apl. 11, '61. Market on fish market space.

76. The dividing line in the market, on Fish market space, shall be run at right angles from the curb stone to the curb stone striking the centre of the open space between stalls numbered 17 and 18, and those numbered 19 and 20.

Ibid, s. 2. Fresh fish.

77. All that part of the market, under cover, on Fish market space, shall be reserved for the sale of all varieties of fresh fish, whether scaled or not, and all that part of the market, under cover, west of the dividing line, shall be reserved exclusively for the sale of salted and unscaled fish, crabs and cheese; and all that part of street space on north and south side of said market, to be for the sale of fresh fish; two stalls west of the dividing line, under cover, and all that part of street space west of dividing line last named, to be set apart for vegetables and fruits of various kinds.

Salt fish.

Crabs and cheese.

Ibid, s. 3. License to conform.

78. All licenses issued by the comptroller for stalls shall conform, by expression, to the privileges granted in the preceding section.

Ibid, s. 4. Boxes removed.

79. The stalls in the market house, on Fish market space, east of the dividing line, shall be kept cleared of all boxes or

cumbrous articles, and the clerk is directed to rent no stall or stalls, to any person or persons, unless they intend to occupy them for the sale of fresh fish. Fish only.

80. The several new stalls erected on the former site of the office of the clerk of Centre market, are hereby set apart for the sale of cheese and salt fish, and the clerk of said market is hereby directed to remove or transfer to the aforesaid new stalls, those persons engaged in vending cheese and salt fish on the several stalls immediately in the rear of the same; and he is directed to set apart the several rear stalls vacated by such removal to the exclusive purpose of vending cheese and salt fish.[1] No. 17, Apl. 5, '60. Stalls in Centre market for sale of cheese.

INSTITUTE MARKET.

81. The clerk of the Centre market is hereby authorized and directed to so place the country wagons, and the vehicles of other dealers who sell outside the Institute market house, in such a manner as to equalize them as near as can possibly be done upon the east and west sides of said market house, and that he shall prohibit all wagons from occupying any of the adjacent streets whilst there is room left for their accommodation upon the sides of the market houses. Res. No. 36, Apl. 2, '58. Wagons outside Institute market house.

82. It shall be the duty of the mayor, with the approbation of the city council, to appoint a keeper to the market house under the Maryland Institute, whose duty it shall be to open all the doors of said market house on Saturday and Wednesday mornings at two o'clock, in the months of December, January and February; and the balance of the year at one o'clock, and on all other days (Sunday excepted,) at day- No. 28, s. 1, R.O Keeper to market house under Maryland institute. His duties.

[1] Res. No. 161, May 13, '59, and No. 113, Sept. 24, '59, authorized the erection of a new market house at the Centre market, between Second and Lombard streets. Ord. No. 113 authorized the city commissioner to have the clerk's office removed from the fish market to second story of the new building, and to lay out as many new stalls as could be placed on the space occupied by the clerk's office of the Centre market, and to place as many new stalls in the centre of the market as the increase of length would allow.

This ordinance further directed the comptroller to dispose of such new stalls as might be made under this ordinance, in accordance with the ordinances of the city.

light; it shall be the duty of the said keeper to close the doors of said market house at ten o'clock, P. M. of each day, (Saturday excepted,) and close them at eleven o'clock on Saturday night;[1] and it shall also be his duty to clean and keep clean the said market house, and the pavements on the outside of said market, with the windows.

Ibid, s. 2. Penalty for violating provisions of ordinance.

83. For all violations of the provisions of this ordinance, or interference with the keeper in the execution of his duty as keeper, the penalty shall be the same as is prescribed in this article for the regulation of markets.

No 34, Apl. 7, '64, Ibid, s. 3. Compensation of keeper.

84. The compensation of the keeper shall be five hundred dollars per annum, and the register is hereby directed to pay to the said keeper twenty-five dollars per annum for brooms, soap and other articles, to be used in cleaning said market house.

Expenses.

No. 28, s. 4, R.O. Market doors.

85. It shall be lawful for the managers of the Maryland Institute to open the market house door leading to the entrance of the hall on Second street, whenever they may require it, after night; provided, said managers shall be held responsible to the mayor and city council of Baltimore, for any injury that may be sustained thereby.

Proviso.

Ibid, s. 5. Defacing, &c., Maryland Institute building.

86. It shall be the duty of the clerk of the Centre market and his assistant, and the keeper of the market house under the Maryland Institute, and also of the police officers, to prevent the defacing, mutilating or injuring the walls of said Maryland Institute building in any manner whatever; and every person wilfully defacing, mutilating or injuring the walls of said Maryland Institute building, shall be subject to a fine of five dollars for each and every offence.

Penalty.

FELL'S POINT MARKET.

No. 27, s. 4, R.O. Limits of Fell's Point market.

87. The limits of the Fell's Point market shall be as follows: beginning for the same at the intersection of Thames

[1] By Res. No 147, June 9, '64, the keeper of the market house under the Maryland Institute is authorized and directed to keep all the doors of the market house under his charge open day and night, including those which have never been opened, until otherwise ordered.

street and Broadway, and running northwardly on a line with the houses on the east and west side of the market to Canton avenue, subject to the provisions regarding footways, in section 75, hereinbefore.

No. 97, Oct. 16. '60.

Stalls to be occupied every day of the week.

88. The clerk of Fell's Point market is directed and empowered to allow the owners, proprietors or occupiers of the several stalls or stands occupying the space between the two market houses, and formed by the intersection of Lancaster street with Broadway at the Fell's Point market, to occupy, use and sell from the same, on every day of the week, except Sunday.

Regulations.

89. The better to promote the convenience of the community, the clerk of said market is further authorized and empowered to establish such regulations for the proper arrangement of the stalls or stands occupying said market, as may in his judgment seem best.

HANOVER MARKET.

No. 27, s. 3, R.O.

Limits of Hanover market.

90. The Hanover market shall include the market house, with the grounds in the centre thereof, the alleys to the northward and westward thereof, and also the whole width of Hanover street, from Conway street to Lombard street, and also the whole width of Camden street, from Charles street to Howard street, and also the whole width of Sharp street, from Conway street to Pratt street, and the whole width of Dover street, from Hanover street to Sharp street, subject to the provisions regarding footways, prescribed in section 75, hereinbefore.[1]

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[1] As to the re-building and improvement of the Hanover market by means of a lottery in 1838, see 1838, c. 323, and 1839, c. 52, and *Lucas et al.* v. *Lottery Commissioners*, 11 G. & J., 515.

HOLLINS STREET, CROSS STREET AND RICHMOND MARKETS.

No. 27, s. 6, R. O. Limits of Hollins street, Cross street, and Richmond markets.

91. The limits of the Hollins street,[1] Cross street[2] and Richmond markets,[3] shall include the whole of the lots belonging to the city, on which they respectively stand, and so much of the adjacent streets as may be in front of the said lots, subject to the provisions regarding footways, prescribed in section 75, hereinbefore.

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[1] No. 60, Aug. 27, '63, No. 5, Feb. 5, '64, and No. 36, Apl. 11, '64, provided for the erection of an additional market house at the Hollins street market. The first and last named ordinances authorized the comptroller to rent the public hall in the upper story, and to sell, in perpetuity, all the permanent and moveable stalls in the market house at public sale, to the highest bidder; provided, he might, in his discretion, withdraw any stall or stalls should the bid be less than what he deemed the value of the same; the rent of the said stalls to be regulated and fixed by him, at such prices as in his judgment best promote the interests of the city and the prosperity of the market. This ordinance further provided that the said market house shall, in all respects, be governed by the ordinances of the mayor and city council in relation to markets.

No. 81, June 9, '64, provided for the erection of an extra story and end gallery to above.

[2] No 33, Apl. 7, '64, authorized the erection of a new market house, and an office for the accommodation of the clerk, on Cross street market space, fronting on Light street, and directed the comptroller to dispose of the stalls in the new market, in accordance with existing ordinances.

[3] The Richmond market was established under acts of the Legislature of 1833, c. 35, and 1852, c. 30. By the act of 1853, c. 260, the mayor and city council were authorized to condemn and acquire property in the vicinity of the Richmond market, for the purposes of the extension of said market.

By Res. 158, May 4, '68, the law officers of the city are instructed to take such steps as may be necessary for the condemnation of all that ground described as follows: the northern line of said property or ground being the south side of the Richmond market space, from Howard to Garden streets, and running southerly with a rectangular depth one hundred and ninety-five feet—the said ground to be used for the purpose of extending the Richmond market. And by Ord. No 78, Oct. 20, '68, the city solicitor is authorized to institute and carry on to completion, all necessary proceedings for the condemnation, for the purpose above expressed, of a lot of ground bounded as follows: on the north, by the southernmost side of Richmond market space; on the east, by Howard street; on the west, by Garden street, and on the south by a straight line drawn from a point on the east side of Garden street, distant one hundred and eighty-eight feet and nine inches southerly from the southernmost side of Richmond market space to a point on the west side of Howard street, distant one hundred and ninety-eight

LEXINGTON MARKET.

92. The limits of the Lexington market shall be as follows: beginning with the curb stone on the east side of Eutaw street, and running westwardly the whole width of Lexington market space, to the west side of Pearl street, and on Lexington street from the east side of Eutaw street, and the west side of Pearl street east to Howard street, and west to Pine street, and all streets crossing or intersecting said space south to Fayette street and north to Saratoga street, subject to the provisions regarding footways, prescribed by section 75, hereinbefore; provided, however, that nothing herein contained shall give the right to any person or persons to place any wagon, cart, or other carriage upon Paca, Eutaw, Green or Pearl streets on market days, except the same shall be placed in a line on the centre of said streets; and if any person or persons shall violate the provisions of this section, by placing any wagon, cart, or other carriage, (so as to prevent the access of any other wagon, cart, or other carriage,) to the curb stone opposite any building, without the consent of the owner or occupier of such building, such person or persons so offending, shall forfeit and pay a fine of five dollars.

No. 27, s. 2, R.O

Limits of Lexington market.

Proviso.

Wagons, &c.

Penalty.

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feet and three inches southerly from the southernmost side of Richmond market space.

This ordinance appropriates $125,000 for payment for property condemned and costs; and further enacts that, if the owners of property mentioned will agree to sell to the city the portions of said property owned by them respectively, at such price or prices as that the whole cost to the city, for the purchase of said property, shall not exceed the sum of eighty-five thousand dollars, then in that case, the mayor, register and comptroller are authorized to purchase the said property, and the same shall be paid for out of the above sum.

ARTICLE XXXIII.

MORTGAGES.

STATUTES.

1. Consent to decree: when conveyances recorded, decree may be passed: trustee to be appointed: bond.
2. Trustee may sell on forfeiture: mortgagee to file statement of claim under oath.
3. Affidavit, before whom made.
4. Sale, when confirmed, to have same effect as sales under decrees on bills.
5. Trustee to report sale.
6. Allegations and proofs may be made and taken.
7. Court may set aside sale: when set aside mortgaged premises not to pay costs: costs, by whom payable.
8. Clerk to record deed: to docket case: file and record mortgage.
9. Entry on docket to operate as assignment: to have precedence in the order made: not to be made but on order written and acknowledged.
10. Entry of satisfaction to operate as discharge and conveyance: not to be made but on order written and acknowledged: orders to be recorded with decrees.
11. Court may appoint new trustee.
12. Mortgagee with power to sell, may proceed under general law: notice.
13. Proceedings where default of mortgagors has taken place before mortgages have been submitted to court: statement under oath.
14. What sections applicable.

STATUTES.

P. L. L. art. 4, sec. 782.

Consent to decree.

When conveyances recorded decree may be passed.

1. In all cases of conveyances of lands or hereditaments, or of chattels real situate in the said city, wherein the mortgagor shall declare his assent to the passing of a decree for the sale of the mortgaged premises, it shall be lawful for the mortgagees or their assigns, at any time after filing the same to be recorded, to submit to the Circuit Court of Baltimore city the said conveyances or copies under seal of said court thereof, and the said court may thereupon forthwith decree that the mortgaged premises shall be sold at any one of the

periods limited in said conveyances for the forfeiture of said mortgages, or limited for a default of the mortgagors, and on such terms of sale as to the said court shall seem proper; and shall appoint by said decree, a trustee or trustees for making such sale, and shall require bond and security for the performance of the trust, as is usual in cases of sales of mortgaged premises. Bond.

2. The trustee or trustees so appointed, after giving bond with security, may, after the arrival of the period limited by the decree for a sale, sell, agreeably to the terms of said decree, the mortgaged property or any part thereof; the mortgagees, their executors or administrators or assigns, if the mortgaged claim shall have been assigned before such sale, and after the arrival of the period aforesaid, verifying by their oath, as provided in the succeeding section, a statement of the amount of said mortgage claims remaining due, and filing such statement in said court. Ibid, sec. 783. Trustee may sell on forfeiture. Mortgagee to file statement of claim under oath.

3. The affidavit required by the preceding section may be made before the judge of the said court, or before any justice of the peace for the county or city where the mortgagees, their executors, administrators or assigns may be at the time of the making of said affidavit, if within this State; the official character of the justice being certified by the clerk of the Circuit or Superior Court of such county or city, under his official seal, and if without this State before any person authorized by the laws of Maryland, to take the acknowledgment of deeds, acknowledged without this State. 1861, c. 76. Affidavit before whom made.

4. Such sales and the conveyances thereupon shall have the same effect, if finally ratified by said court, as if the same had been made under decrees between the proper parties in relation to the mortgages, and in the usual course of said court. P. L. L., art. 4, sec. 784. Sale, when confirmed, to have same effect as sales under decrees on bills.

5. The trustee or trustees shall report the sales to the court for its consideration and ratification, or rejection, and such orders shall pass therein touching such ratification, as are usual on sales of mortgaged property in said court. Ibid, sec. 785. Trustee to report sale.

Ibid, sec. 786. Allegations and proofs may be made and taken.

6. Any allegations may be made, and proof under the orders of the said court exhibited, and a trial of the allegations had as the court shall prescribe, to show that the sales ought not to have been made.

Ibid, sec. 787. Court may set aside sale.

When set aside mortgaged premises not to pay costs,

Costs, by whom payable.

7. The said court, upon being satisfied of the truth of said allegations, shall reject and set aside the sale, and in such case no part of the costs or expenses or trustee's commission, if any such commission be claimable, in relation to the said sales, shall be chargeable upon said property, or the mortgagors, their heirs, executors, administrators, or assigns; but shall be wholly chargeable against the persons at whose instance or for whose benefit the said sales shall have been proposed to be made.

Ibid, sec. 788. Clerk to record decree, to docket case, to file and record mortgage.

8. The clerk of said court shall file and record the said decrees, and docket the cases of the application therefor, and in the said decree, and to be recorded therewith, shall file a copy of the mortgage upon which the same was rendered; and shall be entitled to the usual fees for such services.

Ibid, sec. 789. Entry on docket to operate as assignment.

To have precedence in the order made.

Not to be made but on order written and acknowledged.

9. Any entry on the docket of said court, by the person entitled to assign the said mortgage claim of the use and benefit of said decrees, shall have the same effect as assignments and conveyances of the said mortgage interests, to have effect and precedence from the times of their respective entries; and the said entries shall not be made without an order, or direction in writing, to be acknowledged before the judge of said court, or a justice of the peace, by the persons purporting to sign the same, and filed and recorded by said clerk.

Ibid, sec. 790. Entry of satisfaction to operate as discharge and conveyance

10. The duly authorized entries upon the docket of said court of the satisfaction of said decrees, and the discharge of said mortgage claims, made by the persons entitled to receive said claims, shall have the same effect to discharge the mortgaged property of said mortgagor, and all liens thereunder, as any conveyances by the parties interested in such claims, and the holders of the legal estate and interest therein, if competent to convey, could have at law or in equity; but

such entries shall not be made without an order or direction in writing, acknowledged by the person or persons purporting to have signed the same, before the judge of said court, or a justice of the peace, and filed by the clerk of said court; and the returns shall refer to such orders or directions, and the names of the person or persons aforesaid, and said order and directions shall be recorded in said court with said decrees.

Not to be made but on order written and acknowledged.

Orders to be recorded with decrees.

11. The said court may at discretion from time to time appoint any other trustee or trustees in place of those appointed by the decree; and the proceeds of such sales shall be accounted for and to, and distributed by, said court, in the manner usual in cases of sales under decrees of said court.

Ibid. sec. 791.

Court may appoint new trustee.

12. Any mortgagee of property in the city of Baltimore, his assignee, or executor, where a power to sell is contained in the mortgage, may proceed under the general law relating to mortgages, but notices of sale under such power shall be published in two daily newspapers in said city, for the period required by law.

Ibid, sec. 792.

Mortgagee with power to sell may proceed under general law.

Notice.

13. Where a default of the mortgagors has taken place before the said conveyances have been submitted to the Circuit Court of Baltimore city, it shall nevertheless be the duty of said court, upon the submission of the said conveyances to such court, after the said default, to forthwith decree that the mortgaged premises shall be sold, on such terms of sale as to the said court shall seem proper; and to appoint by said decree a trustee or trustees, to make such sale requiring bond and security for the performance of the trust, as is usual in the case of the sale of mortgaged premises; and the said trustee or trustees may sell the same agreeably to the terms of the said decree; but before each sale the mortgagee or mortgagees or some of the mortgagees, or the executor or administrator of a deceased mortgagee, or the assignee or assignees of the mortgage, or one of such assignees, or the executor or administrator of a deceased assignee, shall file in the court in which the said proceedings are pending, a statement of the

1864, c. 124, s. 1

Proceedings where default of mortgagors has taken place before mortgages have been submitted to court.

Statement under oath. Ibid, s. 2.

amount of the said mortgage claim remaining due, verifying the same by the oath or affirmation of the party filing the same; and the said affidavit or affirmation may be made before any of the persons mentioned in section three of this article, and the same shall be authenticated as provided for in said section three hereof.

What sections applicable to these proceedings.

14. The provisions of sections four to eleven, inclusive, of this article, shall apply to all the proceedings under the preceding section.

Decisions on Mortgage Law of Baltimore City.

This article is composed of the Acts of Assembly of 1833, c. 181, 1836, c. 249, 1839, c. 9, 1852, c. 148, s. 9, 1852, c. 198, 1861, c. 76, and 1864, c. 124. The decisions are as follows:

The agreement for a decree in a mortgage executed under the mortgage law relating to Baltimore city, is to be regarded only as a consent to dispense with the intermediate proceedings of *subpœna* and answer, in order to facilitate a decree, and not that the decree shall be binding at all hazards. *Williams* v. *Williams*, 7 Gill, 302.

The court is only restricted in fixing a time for the sale to "one of the periods limited" in the mortgage for the forfeiture thereof, and it may prescribe such terms of sale as shall seem proper; it may direct the property to be sold for cash. *Ing* v. *Cromwell*, 4 Md., 31.

The mortgage itself fixes the time for the payment of the money, and the mortgagor cannot complain that further notice was not given to him. *Ing* v. *Cromwell*, 4 Md., 31.

A mortgage was executed to the mortgagee in trust for the benefit of the payees of certain promissory notes secured by it. He, upon default to make sale and apply the proceeds to the payment of the debt and interest. Held, that the mortgagee was the proper party to make the statement and affidavit, and that the payees in the notes, the *cestuis que trust* in the mortgage, need not be made parties to the proceedings under the law. The affidavit and statement of the amount due on the mortgage need not be made before the decree, but only before the sale. *Hays* v. *Dorsey*, 5 Md., 99. *Brooks, trustee*, v. *Hays*, 24 Md., 507.

The proceedings, so far as the obtention of the decree is concerned, are *ex parte*. Want of notice to the mortgagor or to a party claiming under him, of the application for a decree upon a mortgage, is no objection to such decree. The rights of third persons are to be inquired into on the ratification of the sale, and not before. *Eichelberger* v. *Harrison*, 3 Md., Ch. Dec. 39. *Kaufman* v. *Walker*, 9 Md., 229. *Cronise* v. *Clark, et al.*, 4 Md., Ch. Dec. 403.

An objection to a sale, that the affidavit as to the amount due upon the mortgage, was not filed by the mortgagee, or his assignee, before the sale was made, may be taken by the purchaser before the final ratification, and is fatal, even

though the affidavit may be filed before the final action of the court upon the sale, and the mortgagor may consent to its ratification, but such an objection is too late after the final ratification has been duly made. The statement of mortgagee's claim on oath is not conclusive, and the amount actually due is open to examination on proof, either before the sale or after the order of ratification *nisi*. *Gatchell* v. *Presstman, et al.*, 5 Md., 161.

A sworn statement of the amount due filed by the mortgagee with his petition after the forfeiture and before the time of sale, is sufficient. The trustee may give bond at any time before sale. *Brooks, trustee*, v. *Hays*, 24 Md., 507.

A mortgage, to come within the provisions of the mortgage law, must contain such assent of the mortgagor to the passing of a decree in conformity to the provisions of the law, as to authorize the court, before default, forthwith to decree a sale of the mortgaged premises. A clause that, "in case of default being made in the premises," it shall be lawful for the mortgagee, his executors, &c. "to procure by a decree of any court of competent jurisdiction, a sale" of the mortgaged property does not bring the mortgage within the special jurisdiction of the mortgage law. *Kenly* v. *Wierman's ex'r.*, 18 Md. 302.

The propriety of a decree and the validity of a sale under said law may be inquired into and contested after the passage of the order of ratification *nisi*, and before final order of ratification be passed. The meaning of the provision in the law is, that where the decree is entered before default, no sale shall be made till something is due upon the mortgage, but the remedy of the mortgagor is not limited to the period before forfeiture, but a decree passed after default is within the purview of the law. *Black* v. *Carroll*, 24 Md., 251. *Franz* v. *Teutonia Build. Asso.*, *ibid*, 269. *Brooks, trustee*, v. *Hays*, *ibid*, 518, *Seebold* v. *Lockner & wife*, 29 Md.

The advertisement of a trustee appointed to sell mortgaged property, described the house and lot in the city of Baltimore, offered for sale under the decree, as situate on "the S. side of Lombard street, at the distance of 391 ft. or thereabouts from the S. W. corner or intersection of Lombard and Canal streets, fronting on Lombard s reet about 24 feet, and extending back about 100 feet to the midway between Lombard and Granby streets, and is improved by a good and substantial three story brick dwelling house, with a brick back building." Held: that this was an insufficient description of the property, and, in connexion with the fact that it sold for much less than its value, will avoid the sale. The advertisement is designed not only to let the public know what property is thus brought into market, but also to afford the owner an opportunity to redeem it from sale, or to prevent its being sacrificed. Judicial sales will not be set aside for causes that the parties in interest might, with reasonable diligence, have obviated; every intendment will be made to support them. But where the court can see that injustice will be inflicted by the ratification of a sale, upon a party not in default by reason of the carelessness or omission of the trustee, the sale should not be ratified. In such sales the court acts for all parties, through its officer, the trustee, and all parties look to the court for protection against the consequences of his acts or omissions. *Kaufman* v. *Walker*, 9 Md., 229.

Where a trustee under a decree for foreclosure inadvertently describes one of the lots advertised to be sold as subject to a ground rent of $65, instead of $65.50, the true account, held that this furnished no adequate ground for inter-

fering with the sale. A mistake in the year in one of the advertisements of sale not calculated to mislead—the advertisement of the same in another newspaper being without exception—is an irregularity which the court may overlook in the ratification of the sale. *Brooks, trustee.* v. *Hays*, 24 Md., 507.

Held that where a decree for the sale of mortgaged property had been passed, and after the trustee had advertised the property for sale, the mortgagor applied for the benefit of the insolvent laws, and his trustee in insolvency was appointed and gave bond, the latter, and not the trustee under the decree, was entitled to make the sale. The fact that the trustee in insolvency filed his petition in the mortgage case, denying the right of the trustee under the decree to sell, and asking that the sale might be stopped, on the ground that he alone had the right to sell, is not a submission to the jurisdiction of the court passing the decree, to such an extent as to stop him from successfully resisting the sale. *Zeigler* v. *King*, 9 Md., 330. See *White* v. *Malcolm*, 15 Md., 529.

On an appeal from a decree under this mortgage law, the Court of Appeals will examine the terms and conditions of the mortgage and determine whether the decree is in conformity therewith. In proceedings under the mortgage law the court, below has no power to pass any decree not in conformity with the conditions of the mortgage, and embraced in the terms of assent to the decree contained in the mortgage itself. The court below is not authorized to determine judicially by its decree the amount due on the mortgage, and a decree for a sale, "unless a certain sum is paid," when, on the face of the mortgage, no such sum could be due at the time of the decree, and there was no covenant or engagement in the mortgage, to pay any such sum, is erroneous. *Robertson* v. *The Am. Homestead Asso.*, 10 Md., 397.

The objection to a decree passed after default that it does not appear by averment of proof that the plaintiff was incorporated as a building association pursuant to law, cannot be taken advantage of by a defendant who has recognized its existence and right to sue according to the general incorporation law, by executing to it a mortgage. *Franz* v. *Teutonia Build. Asso.*, 24 Md., 259. See *Robertson* v. *Am. Homest. Asso.*, 10 Md., 397, and *Franz* v. *Teutonia Build. Asso.*, 24 Md., 259, as to mortgages to building associations.

A mortgage was executed and a decree obtained thereon on the equity side of Baltimore County Court. Afterwards a bill was filed in chancery by the creditors of the mortgagor to set the mortgage aside as fraudulent as against them. Held, that the decree in equity was sufficient to protect the mortgagee against inquiry in this case into the question of fraud in obtaining the mortgage. *McDowell et al.* v. *Goldsmith*, 6 Md., 319. 2 Md. Ch. Dec. 370.

The summary proceedings prescribed by the mortgage law of Baltimore city, are not applicable to mortgages of moneyed securities and bank stock. *Cronise* v. *Clark et al.*, 4 Md., Ch. Dec. 403.

ARTICLE XXXIV.

PARKS.

STATUTES.

1. Resolution and ordinance of mayor and council relating to parks confirmed.
2. Powers of park commissioners: rules and regulations: fines, how recoverable.
3. Conservators of the peace.
4. Park commission may make requisition for police: powers of police.
5. Park commission may condemn land, and how and when.
6. Park commission may enlarge streets and avenues around and leading to park: may condemn.
7. Improvement of parks: issue of bonds authorized.

ORDINANCE.

Keeper of Patterson's park.

STATUTES.

1862, c. 29. Resolution and ordinance of mayor and council relating to parks confirmed.

1. The resolution of the mayor and city council of Baltimore, appointing a commission in relation to the proposed public parks, approved June the fourth, eighteen hundred and sixty, and an ordinance of the said mayor and council, to provide for a public park or parks, approved July the twenty-first, eighteen hundred and sixty,[1] are hereby confirmed, and all acts done or which may be hereafter done by the said

[1] The act of 1862, c. 29, repeals 1861, c. 41, on same subject. The resolution and ordinance referred to above, are as follows: (for the provisions of the ordinances and acts of assembly relating to the one-fifth of the passenger receipts of the City Passenger Railway Company, see Railroads, *post*.)

The resolution is Res. No. 227, June 4, '60:

Whereas, as one-fifth of the revenue from the Passenger Railway Company is to be devoted to the purchase of a park or parks for the city of Baltimore; and whereas, a considerable portion of the funds are already in the hands of the register, and more accruing every day; and whereas, it is fitting that some action looking to a proper selection of the park or parks, and the purchase of the same should be taken by the present council—therefore,

Resolved, that the mayor be and he is hereby authorized and empowered to appoint four discreet persons, who, with the mayor, shall constitute a commission

mayor and city council, or other officer of said city, or by the park commission acting under the provisions of said resolution and ordinance, shall have the same effect as if the said mayor and city council, prior to the passage of the said re-

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to select and purchase, in the name of the mayor and city council, a site or sites, the number of acres, &c., for the proposed park or parks, and that said commission shall serve without pay or emolument.

The ordinance is Ord. No. 60, July 21, '60: it enacts that,

1. Whenever the commissioners appointed under a resolution of the mayor and city council of Baltimore, entitled resolution appointing a commission in relation to the proposed public parks, shall certify to the register, under their respective hands, that they have purchased the site or sites for a park or parks, describing the same in their said certificate, and stating the price agreed to be paid therefor and the terms of sale, it shall be the duty of the said register to issue and deliver to the said commission, certificates of stock of the mayor and city council of Baltimore, in the usual form, redeemable at the end of thirty years from the date thereof, and designated on the face of the certificate as "Public Park Stock," for the amount of said purchase money, and in accordance with the terms of sale; which certificates of stock shall be delivered to the vender or venders of such site or sites, by the said commissioners upon the conveyance to the mayor and city council of Baltimore of the property so purchased, and after the counsellor of the city shall have certified to the sufficiency of the title or titles thereof; and should the said commission not be able to complete the purchase of said site or sites at one time, so as to be obliged to make several certificates to the register, the same proceedings as those just mentioned shall be had in each and every case.

2. That the revenue derived and to be derived by the mayor and city council of Baltimore from the City Passenger Railways, is hereby pledged and set apart for the payment of the interest on the certificates of stock to be issued under this ordinance.

3. That one-fifth of the revenue aforesaid, remaining after the payment of the interest aforesaid, shall be invested by the register in the stock of the city of Baltimore, as a sinking fund for the redemption of the stock created by this ordinance.

4 That the four-fifths of said remaining revenue shall be paid by the register, on the order of the said commission, as the said revenue shall be received, for the improvement and maintenance of the park or parks aforesaid.

5. That said commission shall make annually to the mayor and city council of Baltimore, in season to be referred to in the annual message of the mayor to the council, a full and detailed report of their proceedings in the execution of the trust reposed in them, showing the character and quantity of work done and the moneys paid therefor, the persons in their employment, their duties and compensation, together with the plan proposed for their operations during the coming year.

6. That the present commission are hereby authorized to take charge of the said park or parks, and the improvement and maintenance, including the preser-

solution and ordinance, had been expressly empowered by an act of the general assembly of Maryland, to enact a resolution and ordinance, in the precise terms of the said resolution and ordinance, and to provide for carrying the same into

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vation thereof; and to that end they are hereby clothed with all power necessary for that purpose, and may appoint and compensate such officer or officers, engineer or engineers, gardener or gardeners, and employ such laborers as they may deem proper and necessary, and with power also to appoint and compensate guardians of the said property for the preservation of order within the limits thereof.

7. That the mayor of the city, for the time being, shall always be a member of the commission *ex-officio*.

8. That the said commission shall have power and authority to dispose of, by sale or otherwise, any portion of said site or sites originally purchased, which may not be necessary for the purposes of said park or parks, as well as any crop, wood, trees, or other property, that may be severable from the freehold, should it become necessary, in the improvement and maintenance of said park or parks, so to do, in their judgment, and to make use of the avails thereof for the use of said park or parks. And the mayor is hereby authorized to execute any conveyances, certified by the city counsellor, that may be required therefor; provided, however, that the joint expenses of said improvement and maintenance shall not exceed in any year the net revenue that may be received under the provisions of this 8th section, together with the said four-fifths of remaining revenue, as set apart for this purpose in the 4th section of this ordinance.

9. That the said commission shall have full power to make all agreements with proprietors in regard to division lines and enclosures, the adjusting thereof, and the exchanging of property for that purpose; and in like manner, the said commission shall have full power to agree for the closing of public roads, should any be found to run through said site or sites, or to make such arrangement thereof as shall enable them to have entire control of the said park or parks, the exclusion of improper parties, and the general police thereof.

10. That in addition to the present commission, Thomas Swann, now a member thereof, as mayor of the city *ex-officio*, is hereby appointed a commissioner in his individual capacity.

11. That nothing herein contained shall be taken to authorize the payment of either salary or emoluments of any kind to the said commissioners, or any of them.

12. That should any vacancy occur in said commission from death, resignation, or failure to serve, the same shall be filled by the said commission itself, and be by them reported to the council, for and subject to its approval, at the first session thereafter.

See other ordinances, &c. as to park police, under Police, *post;* as to park stock, under Stocks, *post;* as to avenues around park, see Streets, *post;* as to railways into park, under Railroads, *post;* as to lakes and reservoirs, under Water, *post.*

effect; but nothing herein is to affect any right whatsoever of the Green Spring Avenue Company.[1]

1862, c. 29. Powers of park commissioners.

2. The park commission, for the time being, appointed under the provisions of said resolution and ordinance, or any resolution or ordinance supplementary thereto, shall have power, from time to time, to make such rules and regulations for the government and the preservation of order within the said parks as they may deem expedient, declaring what fines, not exceeding in any one case one hundred dollars, shall be imposed for breaches of said rules and regulations, to be recoverable in the name of the mayor and city council of Baltimore, as small debts are recoverable before a justice of the peace of the said city, and appropriated to the purposes of said parks.

Rules and regulations.

Fines, how recoverable.

1862, c. 29. Conservators of the peace.

3. The several members of the said park commission shall have the powers of conservators of the peace within the limits of the said parks.

1862, c. 29. Park commission may make requisition for police.

4. The board of police of the said city are authorized, on the requisition of the park commission, to detail, from time to time, such of the regular police force of said city, as the said

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[1] 1864, c. 141, entitled an Act to amend the Act to incorporate the Green Spring Avenue Company, passed at January session, 1858, c. 216, and the act amendatory thereof, passed at January session, 1860, c. 164, and to carry out the provisions of an agreement made between the said company and the mayor and city council of Baltimore, provides that:

SEC. 2. *Whereas*, an agreement has been made between the said Company and the mayor and city council of Baltimore, whereby a road has been provided through Druid Hill Park, from the southern entrance thereof to an entrance already agreed upon on Woodbury lane, which road is to be at all times hereafter kept open and in repair by the park commissioners, for use at all hours of the day and night, for such travel as is permitted by the general regulations of the park within its limits; *therefore, be it enacted*, that the Green Spring Avenue Company are hereby released from the obligation of constructing their said avenue south of the northern boundary of said park.

SEC. 3. *And be it enacted*, that the said Druid Hill Park be and the same is hereby declared to be forever exempt from the passage through it, or the construction within it of any public highway, turnpike or railroad.

SEC. 7. *And be it enacted*, that this act shall be of non-effect until accepted by the Green Spring Avenue Company.

This act was duly accepted by the company.

board may deem necessary for the preservation of order within the said parks, according to the regulations aforesaid, and under the direction of said board; which detailed force shall have the same power in the premises, that the police of city have as conservators of the peace. Powers of police.

5. If the said park commission shall 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 if the owner thereof or any of the owners thereof, at the time of application, be a *feme covert*, under age, *non compos mentis*, or residing out of Baltimore county, application may be made by the said commissioners, to any justice of the peace of Baltimore county, who shall thereupon issue his warrant, under hand and seal, directed to the sheriff of the county, directing him to summon a jury of twenty inhabitants of said county, not related to the parties, nor in anywise 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 shall act as the 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, 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 the said clerk at the expense of the said

1862, c. 29. Park commission may condemn lands, and how and when.

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 the 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.

1862, c. 29. Park commission may enlarge streets and avenues around and leading to park.

6. The said park commissioners are authorized to enlarge the streets and avenues around and leading to the said park; and in the event of failing to agree with the owner of any property required for that purpose, or of any interest therein, for the purchase thereof, or if the owner be a *feme covert* under age, *non compos mentis*, or be residing out of the county at the time, the said commissioners are hereby 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, and the jury, in estimating such damages, shall not make any allowance or deduction on account of any real or supposed benefits which the owner may derive from said park, or from such enlargement of said street or avenue.

May condemn.

1868, c. 36. Improvement of parks.

Issue of bonds authorized.

7. The mayor and city council of Baltimore are hereby authorized to issue from time to time, as they may deem proper, the bonds of said mayor and city council, payable at such time and for such sums as they may deem proper, not exceeding the sum of fifty thousand dollars in any one year, and in the whole not exceeding the sum of one hundred thousand dollars, for the improvement of the public parks of the said city, the authority now given being that required by

the seventh section of article eleven of the Constitution of this State, to enable the said mayor and city council to make appropriation at their discretion within the above limits for the purpose aforesaid.[1]

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[1] The Park Commission, in their report to mayor, &c., Jan. 1, 1869, give the following estimate of number of acres and cost of the parks:

	A.	R.	P.		
"The purchase from Mr. Rogers of the Druid Hill Estate, was	453,	0,	28,	@ $1,000	per acre
Additional purchase of Mr. Rogers,	8,	1,	17,	" "	"
" " " "	11,	3,	36,	" "	"
One-fourth of the Mount Vernon Cemetery,	16,	0,	00,	" "	"
Bought of Kroft's heirs,	4,	2,	15,	for $6,000.	
" John Clark and others,	11,	2,	23,	@ $1,000	per acre.
" Hugh Gelston,	7,	3,	00,	" 700	"
" Miles White,	5,	1,	5,	" 800	"
Making in all	518,	3,	4		

"In addition to the above, a portion of the adjacent vacant property of the Water Board is, by agreement, to be included within Druid Hill Park; and it is not improbable that the whole of the ground intervening between Druid Lake and the park will be included, the park commission taking charge of that belonging to the board which it may be willing to trust to their custody, and acquiring some individual interests that would, in that event, be purchased, so as to have within the park enclosure nothing not under the control of the commission. The area of Druid Hill Park, including Druid Lake, will then be very nearly six hundred and eighty acres, with an unbroken frontage on the Northern Central Railway and the valley of Jones' Falls of six thousand feet, or a mile and about three-twentieths of a mile. The cost of Druid Hill Park, exclusive of improvements, up to this time, is $511,323.11, and of Patterson Park, $12,642.50." The Patterson Park contains about thirty-seven acres.

D. STATE LIBRARY.

ORDINANCE.

No. 29, Apl. 5, '66. Res. No. 156, May 13, '59, No. 29, s. 1, R.O. Keeper of Patterson's Park.

There shall be annually appointed, as other city officers are, a keeper of Patterson's Park, whose salary shall be five hundred dollars per annum, payable monthly.[1]

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[1] For other ordinances, &c. relating to parks, see Police, Railroads, Stocks, Streets and Water, *post*.

RULES AND REGULATIONS OF THE PARK COMMISSION FOR THE GOVERNMENT OF DRUID HILL AND PATTERSON PARKS.

1. If any person shall discharge any fire-arm within the park, such person shall forfeit and pay five dollars for every offence.

2 Dogs are prohibited; and, if any person having a dog within the park, refuses, when requested, to take him out, such person shall forfeit and pay five dollars.

3. If any person shall drive or ride upon the grass, or footways, or elsewhere than on the roads for the use of Carriages and Equestrians, such person shall forfeit and pay five dollars for every offence—the owner of the carriage, in the case of driving, to be responsible.

4. If any person shall drive or ride faster than at the rate of six miles an hour, such person shall forfeit and pay five dollars for the first offence, and twenty dollars for every succeeding offence.

5. If any person shall pull any flowers or fruit, whether wild or cultivated—cut down trees or saplings—break limbs, or branches of trees, or bark trees—or injure shrubbery, or plants, such person shall forfeit and pay not less than five dollars, nor more than one hundred dollars, for every offence.

6. If any person shall girdle any tree, such pe son shall forfeit and pay not less than twenty, nor more than one hundred dollars.

7. If any person shall commit a nuisance, or any offence against decency or good morals, such person shall forfeit and pay not less than five, nor more than fifty dollars, for every offence.

8. If any person shall write upon any building, bench, statuary, ornament, or other property, or in any manner cut, deface, or mutilate the same, such person shall forfeit and pay five dollars for every offence.

9. If any person shall throw stones, or rubbish of any kind into any lake or pond of the park, such person shall forfeit and pay five dollars for every offence.

10. If any person shall bathe in any lake or pond of the park, such person shall forfeit and pay five dollars for every offence.

11. If any person shall chase, set snares for, or catch any rabbits, squirrels, birds or fish, within the park, such person shall forfeit and pay five dollars for every offence.

12. If any person shall curse or swear, or use abusive language, or fight, or throw stones, or behave in a riotous or disorderly manner, such person shall forfeit and pay five dollars for every offence.

13. If any person shall introduce any spirituous liquors into the park, either for his own use or for sale, and shall use, or sell, or give the same, such person shall pay not less than five, nor more than twenty dollars.

14. If any person shall set up any booth, or table, for the sale of any article whatever, without the consent of the park commission, such person shall forfeit and pay five dollars for every offence; and the booth or table shall be removed.

15. If any person shall attach a swing to any tree within the park, without the consent of the superintendent, or person in charge of the park, such person shall forfeit and pay five dollars for every offence.

16. If any person shall climb a tree, such person shall forfeit and pay five dollars for every offence.

17. If any person shall foul in any manner any spring or branch, such person shall forfeit and pay not less than five, nor more than ten dollars.

18. When carriages or equestrians meet, the parties respectively shall keep to the right, as the law of the road.

19. If any person shall break, or in any manner injure the enclosure of the park, such person shall forfeit and pay the sum of five dollars for every offence, in addition to the cost of repairing the injury.

20. The gates shall be opened at sunrise, and closed at dark. After the gates are closed, they will be opened only to permit egress, but not ingress of visitors to the park.

21. If any person shall fasten a horse to a tree, such person shall forfeit and pay five dollars for every offence.

22. Any person found intoxicated in the park, may be removed therefrom by the police, and the gate keepers are authorized to prevent the ingress of any such person.

23. Gambling and playing cards is prohibited, under a penalty of five dollars, to be forfeited and paid by each of the parties to the game.

24. If any person shall make a fire for any purpose on the grounds of the park, such person shall forfeit and pay five dollars for every offence.

25. If any person shall trespass on ground enclosed with a rail, such person shall be subject to a fine of five dollars.

26. The pic-nics permitted in the park, are those of Sunday and other Schools, when accompanied by their respective teachers and masters, who will be held personally responsible for all infringements by the scholars of these rules and regulations, in the penalties severally prescribed herein.

27. No pic-nic shall take place in the park without a written permission for the purpose being first obtained from the superintendent, or person in charge of the park, in which shall be designated the spot where it shall be held. If any person shall attempt to hold a pic-nic without such permission, each person engaged therein shall forfeit and pay five dollars, besides being liable to being turned out of the park.

28. Parties holding pic-nics in the park are expected to clean up the ground that has been occupied by them, on quitting it, and not to leave paper to be blown about on the premises.

29. If any person shall disturb any pic-nic, or intrude him or herself upon it, without the consent of those composing it, such person shall forfeit and pay five dollars for every offence.

30. The experience of the commission renders the enforcement of the above regulations in regard to pic-nics indispensable to the preservation of the property, and the comfort and protection of the visitors.

31. If any person shall bring a dog into Druid Hill or Patterson parks, such person shall forfeit and pay a fine of five dollars.

32. All vehicles other than pleasure carriages, as distinguished from wagons, carts and drays, are prohibited within Druid Hill and Patterson Parks, except when employed in the business of the parks.

ARTICLE XXXV.

POLICE.

STATUTES.

1 Power to pass ordinances to preserve order, secure property, &c.: not to interfere with powers of board of police.

BOARD OF POLICE COMMISSIONERS.

2. Election of police commissioners: removal, &c.: salary: bond: oath.
3. President and treasurer of board: vacancy: removal of commissioners for misconduct, &c.
4. Clerk of board: his duties: bond: salary.
5. Duties and powers of board: proviso.
6. Board to enroll, &c. police force: what police to consist of: pay.
7. Board to appoint justices of the peace for station houses: proviso: fees of justices: warrants, &c.
8. Board to estimate sum necessary for discharge of duties: police tax: provisos: certificates of indebtedness.
9. Sheriff's duty.
10. Vacancies among officers: proviso.
11. No gratuity to be received: penalty.
12. Receipts and disbursements.
13. Treasurer to give bonds: account to be rendered.
14. Board may close bar rooms, &c.: penalty.
15. Powers of board as to property, police districts, &c.
16. Disposition of property siezed, &c.
17. Duty of marshal: report.
18. Release of persons committed, &c.
19. Park police.
20. Responsibilities, &c. of mayor, &c.
21. Examination of persons arrested.

THIEVES AND PICKPOCKETS.

22. Duty of police: punishment of common thieves or pickpockets in Baltimore city: indictment and evidence.
23. Thieves, &c., on railroads: duty of police.

ORDINANCES.

1. Mayor authorized to offer reward for persons charged with murder, arson, &c.
2. Duty of police in relation to retail liquor shops.

STATUTES.

1. The mayor and city council may pass ordinances for preserving order, securing property and persons from violence, danger or destruction, protecting the public and city property, rights and privileges from waste or encroachment, and for promoting the great interests and insuring the good government of the city; but no ordinance heretofore passed or that shall hereafter be passed by the mayor and city council of Baltimore shall hereafter conflict or interfere with the powers or the exercise of the powers of the Board of Police of the city of Baltimore hereinafter created; nor shall the said city, or any officer or agent of the corporation of said city, or of the mayor thereof, in any manner impede, obstruct, hinder or interfere with the said Board of Police, or any officer, agent or servant thereof or thereunder.

P. L. L., art. 4, sec. 32.
Power to pass ordinances to preserve order, secure property &c.
Not to interfere with powers of board of police.

BOARD OF POLICE COMMISSIONERS.

2. There shall be elected by the joint meeting of the two houses of the General Assembly of Maryland, three discreet persons, who shall be residents of the State of Maryland five years preceding the day of their election, and three years residents in the city of Baltimore; said three persons shall be known as the Board of Police Commissioners for the city of Baltimore. They shall be subject to removal as hereinafter provided, hold their offices for four years, and until their respective successors shall have been appointed and qualified, and shall each receive a salary of two thousand five hundred dollars per annum, payable quarterly. Before entering upon the duties of their office of commissioners 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 Baltimore city, 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

1867, c. 367.
Election of police commissioners.
Removal, &c.
Salary.
Bond.

Oath.

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[1] 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.

1867, c. 367. President and treasurer of board.

3. The board of police commissioners, on entering upon their duties as such, shall select one of their number who shall be the president, and one of their number who shall be the treasurer thereof, and in case a vacancy shall happen in said board during the recess of the general assembly, it shall be filled by the Governor of the State, which appointment shall continue until the next session of the general assembly, which shall proceed to fill said vacancy, and the general assembly shall also in like manner elect by joint ballot com-

Vacancy.

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1 The oath prescribed by sec. 6 of Const., art. 1, is as follows:

I, ———, do swear, (or affirm,) that I will support the Constitution of the United States; and that I will be faithful and bear true allegiance to the State of Maryland, and support the constitution and laws thereof; and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of ——— according to the constitution and laws of this State.

Sec. 7, referred to above, is as follows: every person hereafter elected or appointed to office in this State, who shall refuse or neglect to take the oath or affirmation of office provided for in the sixth section of this article, shall be considered as having refused to accept the said office, and a new election or appointment shall be made, as in case of refusal to accept or resignation of an office; and any person violating said oath shall, on conviction thereof in a court of law, in addition to the penalties now or hereafter to be imposed by law, be thereafter incapable of holding any office of profit or trust in this State.

missioners to succeed those whose term of service shall expire, such election to be had at the regular session of the general assembly, immediately preceding such expiration, and neither of said commissioners shall be eligible to an elective or appointed office during the term for which he has been elected, except under the militia laws of the State, and for any official misconduct on the part of said commissioners, the general assembly if in session, shall have power of removal, and during the recess of the same the governor shall remove any of said commissioners on conviction for any felony before any court of law, and shall appoint a successor or successors to such delinquent or delinquents, commissioner or commissioners so removed, to serve until the next meeting of the general assembly.[1]

Removal of commissioners for misconduct &c.

4. The board of police commissioners immediately after organizing as aforesaid shall select some suitable person to act as clerk to the board, whose duty it shall be to keep minutes of the proceedings of the board, take charge, by direction of the board, of all property siezed or found by the police or detectives, and to perform all clerical and property duties required of him by the said board; said clerk shall enter into bond to the State of Maryland in the same manner as hereinbefore prescribed for the commissioners in the sum of five thousand dollars, conditioned for the faithful discharge of his duty as clerk and the safe keeping of all property placed in his hands as aforesaid, and shall receive a salary of fifteen hundred dollars per annum, payable quarterly, and be subject to removal at the pleasure of the board.

1867, c. 367. Clerk of board. His duties. Bond. Salary.

5. The duties of the board of police commissioners hereby created shall be as follows: they shall at all times of the day and night, within the boundaries of the city of Baltimore, as well on the water as on the land, preserve the public peace, prevent crime and arrest offenders, protect the rights of persons and property, guard the public health, preserve order at

1867, c. 367. Duties and powers of board.

[1] Like other corporations, the board of police must act through some authorized agent having the authority of a majority of the board. *Mayor, &c.* v. *Poultney & Trimble*, 25 Md. 19.

primary meetings and elections, and at all public meetings and conventions, and on all public occasions and places prevent and remove nuisances, in all the streets and highways, waters, water-courses, and all other places, provide a proper police force at every fire for the protection of firemen and property, protect strangers, emigrants and travellers at all steamboat, ferry boat and ship landings and railway stations, see that all laws relating to elections, and to the observance of Sunday, and regarding pawnbrokers, gambling, intemperance, lotteries and lottery-policies, vagrants, disorderly persons and the public health are enforced; and also to enforce all laws, ordinances of the mayor and city council of Baltimore not inconsistent with the provisions of this act, or of any law of the State, which may be properly enforceable by a police force; in case the said board of police commissioners shall have reason to believe that any person or persons within the limits of the city of Baltimore intend leaving the city for the purpose of committing any breach of the peace, or of violating any law of the State beyond the limits of the city, upon the Chesapeake bay, or on any river, creek, inlet, water-course, or other place on land or water within the State of Maryland, it shall be the duty of the said board of police commissioners to cause such person or persons to be followed, and to take the most efficient means for the suppression and prevention of such outrage, when any such shall be attempted, and to cause the arrest of all such offenders; provided, however, that if any crime be actually committed by such person or persons, the offenders shall be delivered to the proper jurisdiction for trial and punishment; any person charged with the commission of crime in the city of Baltimore, and against whom criminal process shall have issued, may be arrested upon the same in any part of the State by the police force created under this act, under such rules and regulations as the board of police commissioners may adopt; and the said board shall have power to administer oaths or affirmations in the premises to any person or persons appearing or called before them, and shall also have the power of admin-

Proviso.

istering oaths or affirmations, and summoning witnesses before them whenever it may be necessary for the more effectual discharge of their duties.

1867, c. 367. Board to enroll &c., police force.

6. The said board of police commissioners are hereby 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 the power to remove any police officer, or officer of police, or any 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, and one captain, and two lieutenants, eight sergeants, and two turnkeys for each police district in said 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 appointment of special policemen, who shall receive the sum of two dollars and fifty cents per day for their services; the periods of appointment in the regular force shall be four years, unless sooner removed for official misconduct, and the qualifications for the position of officer of police, policemen or detective shall be good moral character, sobriety, citizenship of the United States, ability to read and write, and physical strength and courage; no person who has been convicted and sentenced to the penitentiary shall be eligible to the position of officer of police, policeman, detective, or special policeman; the pay of an ordinary policeman shall be eighteen dollars per week, payable semi-monthly, and in case the board shall appoint detective policemen, and they are hereby authorized and empowered to do so if they shall think fit to the number of ten, said detectives shall receive each the sum of twenty dollars per week, payable semi-monthly, and shall not be allowed to follow any business or profession, but shall devote their whole time to the discharge

What police to consist of, &c.

Pay.

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 two thousand dollars per annum, the deputy marshal shall receive fifteen hundred dollars per annum, each captain twenty-two dollars per week, each lieutenant twenty dollars per week, each sergeant nineteen dollars per week, and each turnkey fifteen dollars per week, the pay herein provided for the officers of police, policemen, and detectives shall continue until a change shall be made by act of the general assembly.

1867, c. 367. Board to appoint justices of the peace for station houses.

7. The said board of police commissioners shall have the power, and it shall be their duty, from time to time, to select and employ from among the duly appointed and qualified justices of the peace for the city of Baltimore, one justice to sit at each station house for the hearing of such charges as may be brought against such persons as may be arrested and carried to said station houses, and shall have full power to pay to said justices such reasonable compensation as they, the said board, may think proper, and to remove and change the said justices at their pleasure; provided, that nothing in this section shall be so construed as to prohibit the said justices from recovering from the parties so arrested and tried, such fees as they may be by law entitled to receive for their services, and it shall be the duty of the officers of police, policemen and detectives appointed under this act, to execute any and all warrants and commitments which the said justices may issue and direct to them.

Proviso.

Fees of justices

Warrants, &c.

1867, c. 367. Board to estimate sum necessary for discharge of duties.

8. It shall be the duty of the board of police commissioners aforesaid immediately to estimate, and annually thereafter, what sum of money will be necessary for each current fiscal year to enable them to discharge the duty hereby imposed on them, and they shall forthwith certify the same to the mayor and city council of Baltimore, who are hereby required, without delay, specifically to assess and levy such amount as shall be sufficient to raise the same clear of all expenses and discounts, upon all the assessable property in the city of Baltimore, and to cause the same to be collected as all other

Police tax.

city taxes; and it is hereby made the duty of the collector of the city of Baltimore, and he is hereby requested to collect said tax, to be denominated the police tax, and the said board of police commissioners, upon and after qualifying as such, are hereby authorized to make requisitions from time to time, upon the comptroller of the city of Baltimore, or other proper disbursing officer or officers of the corporation, for such sums of money as they may from time to time deem necessary for the purpose of carrying out the objects and intentions of this act; provided, the same shall not exceed in any one year the amount so as aforesaid, certified, or which may thereafter be certified for that year, to the mayor and city council aforesaid, and in case the said disbursing officer or officers shall not forthwith pay over the amount of each requisition as made, it shall be the duty of the said board, and they are hereby authorized and required, to issue certificates of indebtedness, in the name of the mayor and city council of Baltimore, in such sum as they may deem advisable for the amount of such requisitions respectively, bearing interest at six per cent. per annum, payable at not more than twelve months after date, and signed by a majority of said board, and to raise the money on said certificates by pledging or disposing of the same; which certificates shall be receivable at par in payment of city taxes, and be as binding on said corporation, and as recoverable against it as if the mayor and city council of Baltimore had themselves issued the same, and the mayor and city council of Baltimore shall have no power or authority to levy or collect any tax, or appropriate any money for the payment of any police force other than to be organized and employed under this act; and no officer or other employee of the said mayor and city council shall disburse any money therefor, and the power of said mayor and city council to levy and collect taxes, and appropriate and disburse money for the payment of the police force, to be organized and employed under this act, shall be exercised as herein directed, and not otherwise; and in case the amount so as aforesaid to be estimated by the said board shall from any cause prove in-

Provisos.

Certificates of indebtedness.

sufficient for the necessary expenses for the current year, the said board are hereby authorized and empowered to issue certificates, and raise money therefrom, as hereinbefore provided, to meet the said exigency; provided, however, that no additional issue shall exceed the sum of fifty thousand dollars in any one year, and that the amount thereof shall be added to the estimate assessment and levy for the year next ensuing, and that said certificates shall not be made payable at an earlier day than twelve months from the date of their issue, but may be receivable in payment of city taxes at any time they may be so presented.[1]

Provisos.

1867, c. 367. Sheriff's duty.

9. It shall be the duty of the sheriff of Baltimore city, whenever called on for that purpose by said board, to act under their control for the preservation of the public peace and quiet, and if ordered by them so to do, he shall summon the *posse comitatus* for that purpose, and hold and employ such *posse*, subject to their discretion in case the said board shall deem it necessary, they shall call out such military force lawfully organized or existing in said city, as they may see fit, to aid them in preventing threatened disorder or opposition to the laws, or in suppressing insurrection, riot or disorder on election days, and at all other times, and it shall be the duty of said military force so called out to obey such orders as may be given them by said board; whenever the exigency or circumstances may in their judgment warrant it, the said board shall have the power to assume the control and command of all conservators of the peace in the city of Baltimore, whether sheriffs, constables, police or others, and they shall act under the orders of the said board, and not otherwise; and in case of the refusal of the said sheriff, or any policeman, constable, or other peace officer or persons, to obey any lawful command of said board under the provisions of this section, they shall respectively be guilty of a misdemeanor, and punishable as in such cases made and provided;

[1] The board of police have no power to have charged to the mayor and city council, any claim not embraced in their estimate for each current fiscal year contemplated by above section. *Mayor, &c.* v. *Poultney & Trimble*, 25 Md., 18.

and any officer of any military force in the city of Baltimore organized under any law now existing or which may hereafter be enacted by the general assembly of this State, who upon being called on by the said board as aforesaid, and shall refuse or wilfully fail to call out the force under his command, or to obey the orders of the said board, or to enforce by all lawful means the performance of the duties to said force assigned, and any inferior officer or private who shall refuse or wilfully fail to obey the orders of his superior officer in such behalf, shall be guilty of a misdemeanor, and punishable as in such cases made and provided.

1867, c. 367. Vacancies among officers

10. Whenever a vacancy shall take place in any grade of officers (except the marshal and deputy marshal) it shall be filled from the next lowest grade, if competent men can be found therein; the board of police commissioners are hereby authorized to make all such rules and regulations, not inconsistent with this act, as they may judge necessary for the appointment and employment, uniforming, discipline, trial and government of the police and detectives, and for the relief and compensation of the members of the police injured in person and property in the discharge of their duty, and the families of men or officers killed while in its performance provided, that the allowance in any one instance shall not exceed twelve months' pay; the said board shall have power to require of any policeman, officer of police or detective, bond with sureties, when they may consider it demanded by the public interest; all lawful rules and regulations of the board shall be obeyed by the policemen, officers of police and detectives, on pain of dismissal or such lighter punishment as may be prescribed by the said board, and the said board shall have power to suspend from duty, fine or forfeit the pay of any officer of police, policeman and detective for violation of any rule or regulation by them made and adopted.

Proviso.

1867, c. 337. No gratuity to be received.

11. No officer of police, policeman or detective shall be allowed to receive any money as a gratuity or extra compensation for any services he may render without the consent of the said board; and all such moneys as any officer of police,

policeman and detective may be so permitted to receive shall be paid over to the said board, and together with the proceeds of all fines, forfeitures, penalties and unclaimed property which may come to the possession of the said board, or be recovered by them under the provisions of this act or any other law, shall form a fund which the board may apply towards the allowances of officers of police, policemen and detectives and their families as hereinbefore authorized, and for extra pay to such members of the force as by gallantry and good conduct on extraordinary occasions they may be judged to merit; and any officer of police, policeman or detective who shall directly or indirectly in violation of this section, receive any moneys as a gratuity or extra compensation, and shall fail to deliver the same to the board for the purposes hereinbefore provided, and shall apply the same to his own use, shall be forthwith dismissed, and forever after ineligible to any position in the force.

Penalty.

1867, c. 367. Receipts and disbursements.

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 moneys 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 the 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.

1867, c. 367. Treasurer to give bonds.

13. The treasurer of the board of police commissioners hereinbefore selected before entering upon the duties of his office as such treasurer, shall in addition to the bond given as commissioner, enter into bond to the State of Maryland, as hereinbefore directed, with one or more sureties in the penalty of ten thousand dollars, conditioned for the faithful discharge

of the duties imposed upon him as treasurer, and the faithful application and payment over, pursuant to the order and direction of the said board, of all moneys which may come into his hands as such treasurer, and shall every six months, on the first day of January and July, in each and every year, during his continuance in office, render to his associates in said board, a true and faithful account of the receipts and disbursements of all moneys received and disbursed by him, by order of the said board, with the vouchers thereof, during said period, which account shall be verified by the affidavit of the said treasurer; and the said board shall thereupon examine said account, and if they find the same to be correct, they shall certify said account, and forward the same to the governor of the State, to be filed in the office of the secretary of State; the said board shall retain a copy thereof, with their certificate attached, to be filed among the papers of their office.

Account to be rendered.

1867, c. 367.

Board may close bar rooms, &c.

14. The said board of police commissioners are authorized and empowered, whenever in their judgment the public peace and tranquility may require, to order the closing temporarily of any and all bar rooms, bars, drinking houses and liquor shops, and all other places where liquor is usually sold in the city of Baltimore, and forbid the selling and furnishing of liquor thereat; and any proprietor or keeper, or any other person for such proprietor or keeper, of any such drinking house, place or places, as well as all other places where liquor is usually sold, who shall refuse or fail to obey such order of said board of police commissioners passed in pursuance thereof, or who shall sell or furnish liquor from any such place or places, during such period as said board shall so forbid, shall be guilty of a misdemeanor, and it shall be the duty of each and every officer of police, policeman and detective, who may be cognizant of any violation of this section, to report the same to the grand jury of the city of Baltimore, if in session, and if not in session, then to the next grand jury that may be summoned for said city, and every officer of police, policeman and detective who shall wilfully fail to make

Penalty. such report, shall be forthwith dismissed from his position, and shall be forever after ineligible to any position in the police.

1867, c. 367. Powers of board as to property, police districts, &c. 15. The said board of police commissioners are hereby authorized and empowered to take possession of all property heretofore by law assigned to the former board of police, and to have and use a common seal; they may divide the city into such number of police districts as they may think necessary for the public good; and if found practicable, in addition to the station houses and property attached thereto, which they are hereby authorized and empowered to take possession of, and use, they may provide additional station houses, with all necessary appurtenances, as may be found needful and necessary, and such accommodations as may be requisite for the police force; said board shall also have the use of the fire alarm and police telegraph in the city of Baltimore, and of all station houses, watch boxes, arms, accoutrements and other accommodations and property provided by the city of Baltimore for the use and service of the police heretofore created by an act of the corporation of said city, as fully and to the same extent, as if the same had been provided for the use of the board created by this act.

Fire Alarm and Police Telegraph.

1867, c. 367. Disposition of property siezed &c. 16. It shall be the duty of every officer of police, and every policeman and detective to report to the board, and deliver to them all property seized or found by said officers of police, policeman or detective, immediately after the same shall have come into their possession, which property, with the date of delivery and description of the same, and the name of the officer, policeman or detective depositing the same, shall be entered in a book by the clerk, to be provided for that purpose; said clerk shall have the custody of all such property, and shall be held responsible for the safe delivery of the same to the claimants, when ordered to do so in writing by the said board, which order shall be his voucher; and any officer, policeman or detective, who shall fail or refuse, for a period of twenty-four hours, to deposit all such property as aforesaid,

shall be subject to removal by the said board, and every officer, policeman or detective, who shall wilfully refuse to return all such property as aforesaid, or shall return the same to any claimant, shall be forthwith dismissed from office.

1867, c. 367. Duty of marshal. Report.

17. It shall be the duty of the marshal of police of the city to make to the board of police commissioners, to be by them certified to the clerk of the Criminal Court of Baltimore, on the morning of each day, (except Sunday,) a report showing the number of persons confined in the several station houses of said city, for any offence indictable under the common law, or the Code of Public General Laws of Maryland, with the cause of their commitment, and how many, if any, were released, and by whom; and if any trial was had, and before whom; and the names of the witnesses, if any, examined or present at the trial, and the place of their residence, and if any fine and costs were imposed; if so, how much and to whom paid.

1867, c. 367. Release of persons committed &c.

18. No marshal of police, or any of the captains of any of the districts or station houses, or any one acting for or under them, or any of them, shall release any persons committed or confined in any of the station houses for any felony or misdemeanor, but all such persons shall be released only on the order of the committing magistrate, the judge of the Criminal Court, or one of the members of the board, or other lawful process.

1867, 367. Park police.

19. The said board of police commissioners are required, on the requisition of the Druid Hill Park commissioners, to detail from time to time such number of the regular police force of said city as the said board may deem necessary for the preservation of order within the said park, which detailed force shall have the same power in the premises that the police force of the city have, as conservators of the peace within the city limits.[1]

1867, c. 367. Responsibility, &c., of mayor, &c.

20. Nothing in this act contained, shall be so construed as to destroy or diminish the liability or responsibility of the mayor and city council of Baltimore for any failure to dis-

[1] See Parks, *ante*.

charge the duties and obligations of said mayor and city council, or any of them, or give the said mayor and council any control over said board or any officer of police, policeman or detective appointed thereby.

1867, c. 367. Examination of persons arrested in day time.

21. All persons arrested in the day time under the provisions of this act shall be taken by the officer or officers making the arrest, immediately before the nearest magistrate for examination, previous to their incarceration in either of the watch houses or jail of the city of Baltimore.[1]

THIEVES AND PICKPOCKETS.

1864, c. 38, s. 1. Punishment of common thieves or pickpockets in Baltimore city.

22. It shall be the duty of all police officers in Baltimore city to arrest and take before some one of the station house justices in Baltimore city, all persons whom they shall find in

[1] 1861, c. 46 relating to closing bar-rooms, unrepealed by the act of 1867, c. 367, is incorporated in said act, with modifications, as section 14 of this article. 1861, c. 6, relating to the constabulary and justiciary power of the board over negroes and mulattoes is also unrepealed by 1867, c. 367, but was rendered obsolete by 1865, c. 166, relating to negroes.

1867, c. 117, provided for the liquidation and settlement of arrearages of pay due to the officers and men of the police force appointed and organized under act of 1860, c. 7. See Res. No. 10, Nov. 25, '67.

It was held, under the acts of 1860, c. 7; 1862, c. 111, and 1862, c. 131, relating to the former board of police that, as a board of State officers, possessing the power, among others, to make disbursements, they could not be disturbed or their power suspended except by the legislature; and the disbursement of a portion of the fund for the payment of the salary of one of the board, was a legal exercise of their official duty. A check given to one of the board, and accepted by him in payment of his salary, must be held to be a legal appropriation and disbursement, excluding to that extent the board from any further control over the amount thus appropriated. Though displaced by a force to which they yielded and could not resist, their powers and rights under their organization were still preserved, and they were amenable for any dereliction of official duty, except in so far as they were excused by uncontrollable events. They were a board of State officers, strictly within the jurisdiction of the State authorities, and the courts in determining their rights and obligations, have no other guide than the statute law of the State applicable to the case and the parties presenting the appeal. *Mayor, &c. of Balt.* v. *Howard et al.* 20 Md., 335. The validity and constitutionality of the act of 1860, c. 7, by which the board of police was created, was determined in *Mayor, &c. Balt.* v. *State ex rel. of the Board of Police of Balt.* 15 Md., 376. Res. No. 22, Feb. 8, '60; 23, Feb. 11, '60. See *Habeas Corpus* case of Young, Valiant and Thomson, in report of Police Commissioners, Jan., 1867, and Res. Nos. 23, Nov. 13, '66; 1, Jan. 22, '67; 3, Jan. 28, '67, and 249; May 25, '67.

any passenger railway car, or in or about any railway depot in Baltimore city, or in any place of public amusement, or in any street of the city, whom they shall know or have good reason to believe are common thieves or pickpockets, and said justices shall commit or bail such persons for trial before the Criminal Court; and if any person in Baltimore city shall be charged on oath before any justice of the peace in Baltimore city, or before the judge of the Criminal Court, with being a common thief or pickpocket, such justice or judge shall issue a warrant for the arrest of such person, and him commit or bail for trial, and any person convicted in the Criminal Court of Baltimore, of being a common thief or common pickpocket, shall be imprisoned in jail not more than two years nor less than six months, and be fined not more than one hundred dollars; but if any person is arrested or indicted a second time or more for such offence, he shall be convicted only on proof that he has continued to be a common thief or pickpocket for at least one month since his last conviction or acquittal, and it shall be necessary to charge in the indictment only that the person is a common thief or common pickpocket, and any evidence either of facts or reputation proving that such person is habitually and by practice a thief or pickpocket, shall be sufficient for his conviction if satisfactorily establishing the fact to the court or jury by whom he is tried, and there shall be no discretion in any police officer or justice of the peace to discharge or release any person who is by such proof before them, or knowledge on their part, shown to be a thief or pickpocket as aforesaid; but such person shall be bailed or committed for trial, and no conviction or charge of, or for being a common thief or pickpocket, shall prevent any such person from being tried and convicted for any particular act of larceny he may have committed.

Indictment and evidence.

23. If any person shall be arrrested at any place on the line of the Baltimore and Ohio railroad, or on the line of the Northern Central railroad, or on the line of the Philadelphia, Wilmington and Baltimore railroad, or in any of the cars or

Ibid, s. 2. Thieves, &c., on railroads.

depots, or at any of the stations on said roads, or on any ferry boat employed to carry passengers over any part of said roads, and within the limits of this State, charged with being a common thief or pickpocket, such persons may be taken before any justice of the peace of the county in which said place or depot or station may be situated; or if such person be arrested in any car, or on any ferry boat, before any justice of the peace of the nearest convenient county or of the city of Baltimore, and such justice shall on proof, as provided in the preceding section, commit or bail such person for trial before the Circuit Court of the county, or the Criminal Court of Baltimore, as the case may be; and all police officers of Baltimore city, and all conductors of trains and police employed by any of said railway companies, and all constables and bailiffs of any county or city on the lines of said road, shall arrest all such persons at any of the places aforesaid, on the same knowledge and proof of their being common thieves or pickpockets, as provided in the preceding section, and the said justice shall commit or bail such person on the same knowledge or proof; and any person convicted in any county on the line of said roads, with being a common pickpocket, shall be punished by fine or imprisonment in the jail of the county for the same time and in the same amount as provided in the preceding section, and all the provisions of the preceding section shall apply to all cases under this section, except so far as altered by this section.

Ferry boats.

Duty of police.

Penalty.

ORDINANCES.

No. 58, Oct. 15, '58.

Mayor authorized to offer reward for persons charged with murder, arson, &c.

1. The mayor is hereby authorized and directed to issue his proclamation, offering a reward of such an amount as he may deem proper, for the discovery, arrest and conviction, in any of the courts, of any person who may be suspected or charged with the crime of murder, manslaughter, assault with intent to kill, or arson, committed within the city, with setting fire to any building, lumber yard or ship yard in the city, or with having destroyed, injured or defaced any engine, hose, hose carriage or other apparatus or property belonging to the fire department of the city, whenever he shall have knowledge

of the commission of any of said crimes or receive information thereof from any respectable person or persons.

2. The board of police commissioners are hereby requested to ascertain the situation, number, character, and condition of the shops for retailing spiritous liquors in each ward of the city, and of the owners or keepers of the same, and report quarterly, to the mayor in order that he, in concert with the judge of the Criminal Court of Baltimore, may adopt such measures as may be deemed requisite in order to reduce the number and regulate the order of such shops.[1] No. 33, s. 55, R. O. Retail liquor shops.

ARTICLE XXXVI.

RAILROADS.

STATUTE.

Power to mayor and council to construct railways on streets.

ORDINANCES.

CARS.

1. Railway cars not to stand on streets unless chained: mode of chaining: penalty: not to remain on streets on Sunday: proviso.
2. Penalty for removing cars, &c.
3. Where cars may be loaded and unloaded: penalty.
4. Cars, &c. not to be placed across flagstones: penalty.
5. Streets between railroads and footways not to be obstructed: penalty.
6. Railroad cars regulated: penalty.
7. Rate at which railroad cars may move: penalty.
8. Vehicles in passing railways to take the right.
9. Not more than two cars in connection to be moved on track: penalty.
10. Minors not to jump on or off railroad cars: exception: penalty.

TRACKS AND SWITCHES.

11. Railway tracks regulated.
12. To be kept in good condition: penalty.

SPEED OF LOCOMOTIVES, &C.

13. Permission to use locomotive engines on certain streets.
14. Locomotive engines regulated: penalty.
15. Penalty for use beyond limits prescribed.
16. Permission to use wood: proviso.
17. Speed regulated.
18. Application of ordinance.

RAILWAYS.

19. City commissioners duty in respect to railways.

[1] See Streets, *post*.

20. Mode of assessing expense of railways.
21. Of collecting such assessment.
22. Grade of streets, how altered.
23. Private railway authorized.
24. Gutters not to be obstructed.
25. Private railway authorized.
26. What railways may be constructed
27. Mayor may sign application.
28. Railway may be laid otherwise than on a street.
29. Restrictions.
30. Railways to be examined: ordinance to be enforced.
31. When obstruction to be removed.
32. Obstructions of gutters to be removed.
33. Penalty for obstruction.

BALTIMORE CITY PASSENGER RAILWAY.

34. Empowered to lay tracks on streets: single tracks: double tracks.
35. Supervision of the building of the road: rails: time for completing the tracks: in case of failure.
36. The gauge.
37. Conditions for laying down said tracks.
38. Regulations for running cars: fare.
39. Length of time the cars to run: speed.
40. Stock subscription books to be opened: notice to be given: excess of stock.
41. Required to purchase property of omnibus lines: in case of disagreement: proviso.
42. In case of becoming incorporated.
43. Materials, how and where obtained: labor, how performed.
44. How the streets shall be kept and at whose expense: penalty for non-compliance.
45. Abandonment of any route.
46. Privilege to purchase the stock of city railway: in case of disagreement as to value of said stock.
47. One-fifth of gross receipts to be paid to city register: how it shall be applied: power to reduce fare.
48. Grantees to give bond.
49. Authority to lay a single track on Gay street: proviso.
50. To lay single track on Greenwillow street.
51. Single tracks on Sharp, Hill and Hanover streets: centre of streets.
52. Speed during market hours: obstructing cars: penalty.
53. Change of route on Gay, Sharp and Green streets: transfer tickets.
54. Tracks constructed subject to rules &c.
55. Single track on Gay street.
56. Double track on North avenue and Holliday street: how governed: proviso.
57. One-fifth of gross receipts to city.
58. Tracks on High and Albemarle streets: President street station: Calvert and Lexington streets: B. & O. R. R. station.
59. Tracks on Townsend street to La Fayette square.
60. Removal of tracks on Lexington and North streets.
61. Tracks on Baltimore street: Patterson Park.
62. How governed.

BALTIMORE AND YORKTOWN TURNPIKE.

63. Authorized to lay tracks on North avenue, &c.
64. Superintendence of work: grades: water courses: passengers for pay.
65. Cars not to remain standing on streets: police regulations: fare.
66. Streets to be repaired at expense of company: snow and other obstructions: penalty.
67. One-fifth of gross receipts to city register: penalty: city boundary avenue.
68. Right to change price of fare.
69. Forfeiture of right.
70. Tracks on Northern Boundary avenue, &c.: proviso.
71. Tracks on Hillen and Holliday streets: six months' notice to remove tracks.

72. Subject to what ordinance.

DRUID HILL PARK RAILWAY.

73. Park commission to lay down railway tracks on North avenue, &c.
74. Route: fare.

HOWARD STREET.

75. Conveyance of right to private railway tracks: B. & O. R. R. to have same right: reconstruction.
76. Rate at which tonnage is to be charged.
77. B. & O. R. R. Co. to remove track: construction of new track.
78. Engines: bell of engine to be rung: steam: man to precede train.
79. Penalty.

OTHER RAILWAYS.

80. Authority to lay railway on certain streets.
81. How to be built.
82. Grades of streets.
83. Cars not to remain standing: fare.
84. Opening of stock books.
85. If incorporated.
86. Streets to be kept repaired.
87. One-fifth of receipts to park fund.
88. To give bond.
89. Streets.
90. Double or single tracks.
91. Railroad switch to B. & O. R. R.
92. Conditions: notice.
93. Railroad switch on North street: notice.
94. Railroad switch on Holliday street: notice.
95. B. & O. R. R. to lay track on Concord street: proviso.
96. Canton Company to construct a track on Chester and Alice Anna streets: proviso: tracks, how constructed.
97. Atlantic Marine Railway Company authorized to extend railway beyond port warden's line.
98. To drive piles.
99. Consent of owners.
100. Switch on Central avenue changed.
101. Switch on Boston street.
102. Track on Aliceanna street changed.

BALTIMORE AND OHIO RAILROAD.

103. Authorized to introduce railroad into city.
104. From depot to city property, east of Jones' Falls.
105. On Camden street: Pratt and Camden streets connected.
106. On Green to Franklin street, &c.
107. The company not complying.
108. On Howard and Liberty to Baltimore street: on Baltimore street to city property, east of Jones' Falls: track completed.
109. On High, Hillen and Exeter streets.
110. Turn-outs.
111. Cars drawn by animal power: speed regulated: penalty.
112. Passenger cars speed.
113. Rails and obstructions to be removed.
114. To construct railways within the city, reserved: collecting toll.
115. Railway to be kept in repair.
116. To lay rails in certain streets.
117. How governed.
118. B. & O. R. R. Co. authorized to construct railway on Alice Anna and other streets.
119. How governed.
120. B. & O. R. R. Co. permitted to construct a branch on their road to south side of basin: proviso.
121. What articles to be transported on said road: exempt from wharfage.
122. Company may construct wharves.
123. Company authorized to construct a branch road from Pratt street to any part of Fell's Point.
124. What articles exempt from wharfage: articles of transportation, &c.
125. Privileges granted to said company: proviso.
126. Damages to property, life, &c.
127. Locomotive engines: fuel.
128. B. & O. R. R. Co. authorized to lay single track on certain streets: proviso.

129. Street grades not to be altered.
130. Authorized to change curves at President and Howard streets: proviso.
131. Railroad track on South Paca street.
132. Not to occupy more than twenty-four feet width.
133. Railroad track on South Charles street: proviso: notice.

BALTIMORE AND POTOMAC RAILROAD.

134. Authority to construct railway in city: in what streets.
135. Tunnels: grades: proviso.
136. Construction of tunnels: penalty.
137. Conditions: Western Maryland Railroad: Union Railroad.
138. Depot.
139. Construction of road across turnpikes and avenues.
140. Ventilation to tunnel.
141. Railroad along streets, &c.
142. How governed.
143. Time limited.
144. Water and gas mains.
145. Signals.
146. Offices and president.

NORTHERN CENTRAL RAILROAD.

147. Track of railway agreeably to plat in register's office: mayor, &c. to lay off ground for depots: to revert to city.
148. Railways to be removed when required.
149. Turn-outs.
150. Cars drawn by animal power: speed.
151. Railways kept in repair.
152. Right reserved to come in with the main stem.
153. Extending railroad along streets.
154. Time limited for laying rails.
155. Mayor authorized to remove.
156. Location of railroad on Wilk and Exeter streets.
157. Railroad extended to tide water.
158. Where tracks may be laid: tunnels.
159. Locomotives may be used.
160. Connection with main stem.
161. Reservation to city.
162. Grades to be established.
163. City to have supervision.
164. Terminus.
165. Rates of tonnage.
166. Wharves and coal shutes.
167. Tracks through Central avenue, &c.
168. Conditions.
169. Powers and privileges to N. C. R. R. Co.
170. Permission to lay down track on Belair avenue.
171. Conditions, &c.
172. Engines not to pass except between certain hours: penalty.
173. To give bond.
174. Damages, how recovered.
175. Streets to be placed in good condition.
176. Company not to be released from obligations, &c.
177. Authorized to take up and remove track on Central avenue.
178. To lay two tracks on said avenue.
179. Powers reserved.
180. Route on Canton extension.
181. Penalty.
182. Change of route, plan and profile.
183. Offices to be located in Baltimore: bridges and streets to be kept in order.
184. Plats to be deposited.
185. Domain in streets.
186. Assent to ordinance.
187. Track on Eastern avenue: proviso.
188. Powers reserved.

PHILADELPHIA, WILMINGTON AND BALTIMORE RAILROAD.

189. Tracks laid along Fleet street, &c.: proviso: assent of mayor.
190. Railroad not to obstruct streets: remedy: duty of mayor.

STATUTE.

The mayor and city council may, on the application or assent in writing of the owners of the major part in extent of front feet of the lots fronting on each side of any street, or part of a street, pass such ordinances as shall be necessary for the construction of any track or tracks of railway on and along any such street; and may permit and cause such alteration in the grade of such street as may be necessary for the more convenient and useful construction of such railway, and may levy and assess on all the lots fronting on the street, or part of a street, or on the owners of such lots, their just proportion of expense of such construction, and enforce the payment thereof; and the proprietor of any lot in front of which any railway shall be so constructed, and the just proportion of constructing which shall be paid by him, shall be entitled at his own expense to have a convenient sideling or turnout made to enable him to have the beneficial use of said railway.

P. L. L., art. 4, sec. 856. 1831, c. 252.
Power to construct railways on streets.

ORDINANCES.

CARS.

1. It shall not be lawful for any railroad company, or any other person or persons or company, owning any car or cars, to permit such car or cars, when not in actual service, to remain in any paved street for a longer period than one hour, unless there be some chain or other fastening affixed to the wheels of every such car, except when several cars may be connected together, in which case the said chain or fastening shall be attached to one of the said cars, so as to prevent the car or cars from being moved by any person or persons, without violently breaking or removing the said chain or other fastening, and keep the said chain or fastening affixed as aforesaid, until the same may be regularly removed by the agent or person in the actual service of the said person or persons or company, owner or owners of any such car; and

No. 34, s. 1, R. O.
Railroad cars not to stand on streets unless chained.
Mode of chaining.

Penalty.

for every violation of the provisions of this section, the person or persons or company, owner or owners of the car or cars so remaining, and not chained or fastened as aforesaid, shall forfeit and pay, for each and every violation thereof, not less than one nor more than twenty dollars; and any person or persons, company, owner or owners, as aforesaid, who shall permit any car to remain in any paved street on Sunday, shall forfeit and pay five dollars for every car so remaining; provided, this section shall not be extended to cars engaged in the operation of making or repairing any railways or pavements within the city.

Not to remain in streets on Sunday.

Proviso.

Ibid, s. 2. Penalty for moving cars, &c.

2. It shall not be lawful for any person, other than an agent or person in the actual service or employ of the railroad company, or other person or persons, or company, owning any car or other carriage on any railway within the city, without the consent or permission of the person rightfully having charge of the particular car, to put or attempt to assist to put any car in motion on any railway within the city, or to go on or into, or attempt, or assist any other person to get on or into any such car, or to remove, unfasten or break, or attempt or assist to remove, or unfasten or break any chain, lock or other fastening by which any such car or carriage shall be fastened or restrained from motion, or from being put in motion; and any person offending in the premises, shall forfeit and pay a sum not less than one nor more than twenty dollars.

Ibid, s. 3. Where cars may be loaded and unloaded.

3. It shall not be lawful for any person or persons to load or unload any railroad car in any of the streets, lanes or alleys of the city, within the limits of direct taxation, except at the several depots, or by the consent of occupiers of houses or lots immediately opposite their respective premises, or load or unload coal, on or from any railroad car or cars, on any of the streets, lanes or alleys of the city, unless by the consent of the occupants of houses or lots opposite to the point where said persons may wish to load or unload said car or cars, under a penalty of five dollars for each and every offence.

Penalty.

4. It shall not be lawful for any railroad company, or any other person or persons, or company, owning any car or cars, to place or cause to be placed any passenger car, burden car, wagon or other vehicle on any railroad within the limits of direct taxation, in such manner as to obstruct the passage of foot passengers on any of the flag-stones at any of the cross streets within said limits, under a penalty of five dollars for each and every offence, and a further penalty of five dollars for any car which may remain for an hour after notice given to remove the same. Ibid, s. 4. Cars, &c. not to be placed across flag stones.

5. It shall not be lawful for any company, person or persons, to place any railroad cars of any description, on any turn-out or private switch, within the limits of direct taxation, in such manner as to obstruct the free passage along the line of the street between the railroad and the footway, under a penalty of five dollars for each and every offence. Ibid, s. 5. Streets between railroad and footways not to be obstructed. Penalty.

6. It shall not be lawful for any company, person or persons, to place any railroad cars of any description, along the line of any street, in such manner as to prevent the passage of foot passengers, carts or drays, from one side of the street to the other, on any one square occupied by railroad cars; but in all cases, the company, person or persons, so occupying the street with railroad cars, shall leave an opening or space of not less than twenty feet, at or near the centre of the square, or at equal distances from the two nearest cross streets, under a penalty of not less than ten dollars for each and every offence. Ibid, s. 6. Railroad cars regulated. Penalty.

7. No passenger or burden car shall be driven on any of the railways within the limits of direct taxation, (except in ascending the heavy grades of streets, which may require a greater speed, when the rate shall not exceed six miles an hour,) at any faster gait than a walk, and at no time move without a brakesman, in addition to the driver, under the penalty for each and every offence of twenty dollars. Ibid, s. 7. Rate at which railroad cars may move. Penalty.

8. It shall be the duty of every person having charge of or driving any cart, dray, wagon or other carriage, which shall be passing on or along any street in which any railway is or Ibid, s. 8. Vehicles in passing railways to take the right.

shall be laid within the city, to travel or pass only on the right hand side, between the curb stone and the track of the railway, except when prevented by some obstruction in the street, or when it shall be necessary, for any sufficient cause to cross or pass over such railway to the opposite side.

Ibid, s. 9.
Not more than two cars in connection to be moved on track.

9. It shall not be lawful for any person or persons, corporation or company, to move or cause to be moved, more than two railroad cars in connection, upon any railroad track leading through any of the streets of the city, where the descent of said road does not require the aid of propelling power, under the penalty of twenty dollars for each and every offence, one-half to the informer and the other half to the city.

Penalty.

No. 11, Mar. 3, '68.
Minors not to jump on or off railroad cars.
Exception
Penalty.

10. It shall not be lawful for any minor not in the employ of the railroad company, to jump on or from any railroad car, except the city passenger railway, whilst such car is in motion, under a penalty of one dollar for every such offence, to be collected as other fines and penalties are now recoverable.

TRACKS AND SWITCHES.

No. 54, s. 1, 1854.
Railway tracks regulated.

11. All railroad tracks and switches now laid, and those that may be hereafter laid in any of the streets, lanes or alleys in the city of Baltimore, shall be filled up between the rails thereof within one and a half inches of the top of the iron rails, and raised with a convex form in the centre even with the top of said rails, with good even stone pavements, or by planking the same with two inch oak plank.

Ibid, s. 2.
To be kept in good condition.

12. The owners and occupiers of all railroads and switches above referred to shall at all times keep them in good condition, as prescribed by this ordinance, under a penalty of ten dollars for every day (after notice shall have been given) that any part thereof shall, in the opinion of the city commissioner, require repairing; and in case of the neglect or refusal to do the same within the time specified in said notice, then said commissioner shall have the same done in a good and sufficient manner, at the expense of said owner or occupier.

Penalty.

SPEED OF LOCOMOTIVES, &C.

No. 67, s. 1, R.O. Permission to use locomotive engines on certain streets.

13. The Northern Central Railway Company are hereby authorized to use locomotive engines, adapted to a low speed, on the railroad track on North street, to and from Calvert station; the Baltimore and Ohio Railroad Company are authorized to use locomotive steam power upon their tracks between the city limits and Camden station, and along Pratt street, upon their present track, from Howard street to the Mount Clare station; and the Philadelphia, Wilmington and Baltimore Railroad Company are authorized to use locomotive engines on their railway track, between the eastern boundary line of the city and the depot at the intersection of Canton avenue and President street.

Ibid, s. 2. Locomotive engines regulated.

14. When a locomotive engine is used within the limits of the city, a man shall be required to ride on the front of the locomotive engine when going forward, and when going backward on the tender, not more than twelve inches from the bed of the road, nor shall any locomotive engine be propelled at a greater rate of speed than five miles per hour, except when there are grades requiring a greater speed, and then it shall not exceed the rate of seven miles per hour; and the person or persons having charge of such locomotive engine shall ring a bell when approaching any and every cross street, and no steam whistle attached to any locomotive engine shall be used within the limits of the city, except at the Mount Clare, Camden and Bolton stations, and between said stations and the city limits; for any violation of the conditions herein set forth, the company so violating shall forfeit and pay the sum of ten dollars for each and every offence. Penalty.

Ibid, s. 3. Penalty for use beyond limits prescribed.

15. If any railroad company shall use or cause to be used any locomotive engine or engines propelled by steam on any railway track within the city of Baltimore, other than on those where authorized by ordinances of the city, the company shall forfeit and pay for every such offence the sum of twenty dollars, to be collected as other fines and penalties of the city.

Ibid, s. 4. Permission to use wood. Proviso.

16. Privilege is granted the several railroad companies to use wood as well as coal or coke as a fuel, within the limits of the city of Baltimore; provided, however, that nothing herein contained shall be so construed as to prevent the mayor and city council of Baltimore from repealing all or any part of this ordinance, whenever they may deem it expedient.

Ibid, s. 5. Speed regulated

17. No cars with or without horse power, shall, under the same penalty imposed by section fourteen, above, be propelled at a greater speed than four miles an hour, within the city of Baltimore, unless attached to engines as provided for in said section fourteen.

Ibid, s. 6. Application of ordinance.

18. This ordinance is intended to apply to all locomotive engines that now are or may hereafter be used within the limits of the city of Baltimore.[1]

RAILWAYS.

No. 41, Apl. 6, '32. City commissioner's duty in respect to railways

19. Whenever the city commissioner shall receive an application, in writing, to that effect from the owner or owners of the major part in extent of front feet of the lots fronting on each side of the following described streets, to wit: Paca street, north of Pratt street; Howard street, north of Pratt street; in Green street, from Pratt street to Franklin street; along said street to Eutaw, and in Green street, south, to

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[1] In running its engines and cars, in the thronged streets of a populous city, a railroad company is required to use a *higher degree* of caution than would be necessary when moving in the open country. A railroad company is bound to use precaution and vigilance corresponding with the dangerous results which may be occasioned by the negligent use of its machinery. A railroad company, in the lawful pursuit of its business, is bound to use such reasonable care and diligence as prudence would suggest and require in the passage of its locomotives through the thoroughfares of a city. Where a railroad company does not conform to the city ordinances, it is responsible for any accident occasioned by it, unless the injured party was also in fault. If the company failed with regard to such requirements, it is then not in the lawful pursuit of its business, and not entitled to the consideration of the law whose injunctions it has disregarded. Under such circumstances the highest possible vigilance could not protect it from the consequence of its lawless act. *B. & O. R. R. Co.* v. *State, use of Miller*, 30 Md. See *B. & O. R. R. Co.* v. *Bahrs*, 28 Md. 647.

Columbia street; Franklin street, between Howard and Eutaw streets; Baltimore street, between Paca and Eutaw streets; Eutaw street, between Franklin and Pratt streets; Patterson street; Cheapside street; Mill street; Cable street, from Patterson to Commerce street; Commerce street, south of Pratt street, or South street, south of Pratt street; or the owners of the major part in extent of front feet of the lots on the western and southern fronts of Bowly's wharf, he is hereby authorized and directed to contract with the Baltimore and Ohio Railroad Company, to slope down and construct a single track of branch railway of iron, or of stone, or of both, in any and every of the aforesaid streets, or parts of them, to which any such application may refer, in the same manner in which the main stem of the said railroad in Pratt street is now laid down and constructed; or if the said company should refuse to enter into such contract, or the applicant should prefer it, the said commissioner may contract with any other person or persons, or company, to lay down and construct the said railways so applied for, provided they be constructed in the same manner as the said main stem is now constructed, and he is hereby authorized, in either case, under the superintendence of the Baltimore and Ohio Railroad Company, to fix and construct as many turn-outs or turn-abouts on the said main stem, as may be necessary to connect the said main stem with the said branch railways, or from Pratt street along Light street wharf to Lee street.[1]

[1] This ordinance recites that it has always been the intention of the corporation to provide for the distribution of the trade coming upon the railroads, throughout the whole of the city, as improved, so far as it may be practicable; and that the legislature have authorized and directed the mayor and city council to provide for the construction of railways throughout the city; and that the Baltimore and Ohio Railroad Company have, through their president, expressed their disposition to give every reasonable facility in their power to the extension of the trade of the Baltimore and Ohio Railroad along any line of branch railway which the city may authorize to be connected with their main stem; provided, that such railways be so constructed as to afford the same economy and facility for travelling as the main line of the road, and in such manner as not to occasion additional cost or inconvenience to the company.

Ord. No. 25, Apl. 9, '32, provided: That whenever the city commissioner should receive an application in writing to that effect, from the owner or owners of the major part in extent of front feet of the lots fronting on each side of the

Ibid, s. 2. Mode of assessing expense of railway.

20. Whenever the city commissioner shall have entered into any contract as aforesaid, it shall be his duty to assess the entire cost of any such track, and all the expenses incident to its construction, upon all the property fronting upon that part of either of the said streets in which it may be constructed, together with the commission of the city collector, for collecting the same; but in no case shall the said owners be charged for taking up the stone pavement and repairing the same, to a greater extent in width than eleven feet.

Ibid, s. 3. Of collecting such assessment.

21. The said commissioner shall first make out a correct list of the names of all the owners of said property fronting on each side of the said street or streets, or part of it or them, and the amount to be assessed to every such owner or owners shall be in proportion to the number of front feet owned by him, her or them, on the said street or part of a street; and the said list of names, together with the amount assessed to each, shall, without delay, be handed by him to the city collector, who shall, as soon as practicable thereafter, collect the same, in the same manner in all respects as the city taxes are collected, and when collected, pay the same to the register of the city; and the said commissioner is hereby authorized, with the approbation of the mayor, from time to time, to draw upon the register for the amount of the said funds.

Ibid, s. 4. Grade of streets how altered.

22. Whenever it may be necessary or proper, in the opinion of the city commissioner, to alter the grade of any of the said streets, or of any part or parts of any of them, he is hereby authorized and empowered to make the said alteration or alterations, provided an instrument or instruments of writing, to be approved by the city solicitor, shall be first executed and filed in the register's office, containing the assent of the owner or owners of a majority of front feet of the property to be affected by such alteration, and binding the said owners,

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intersection of Green and Franklin streets, up Franklin street to Eutaw street; they were authorized and directed to contract with the Baltimore and Ohio Railroad Company to lay down and construct a single track of branch railway of iron, or of stone, or of both, in the same manner and on the same terms and conditions as is contained in the above ordinance.

or one or more of them, or any other person, who may assume the responsibility, and whose solvency shall be approved by the mayor, to pay the whole damages and cost of such alteration.

Ibid, s. 5. Private railway authorized.

23. The owners of the property on the north side of Pratt street, south of Carpenter's alley, between Paca street and Green street, are hereby authorized to construct a track of railway, subject in all respects, as far as may be, to the provisions of this ordinance, from the main stem of the Baltimore and Ohio railroad, opposite the said property, to the centre of a street forty feet wide, which they have proposed to lay out in said property, running, as designated on the accompanying plat, from the letter A to the letter B, provided the said new street be paved under the direction of the city commissioner, comformably to the ordinances of the city, simultaneously with the construction of the said railway thereupon, and flagstones be placed across the said new street, where it will intersect Pratt street, at the sole expense of the said owners; and the said track of railway shall be connected with the said main stem, at a point immediately opposite the centre of said new street, by a turn-about; and for the purpose of designating the course and situation of the said new street, the accompanying plat shall be filed in the register's office, and be deemed and considered a part of this ordinance.

Ibid, s. 6. Gutters not to be obstructed.

24. All the railways authorized to be made this by ordinance, shall be so laid down and constructed, as not to interrupt the free passage of the water in any gutters of the said streets, or of any other street; and the mayor and city council may remove any railway made in violation of this ordinance, at the expense of the holders of the same property which was assessed for its construction.

Ibid, s. 7. Private railway authorized.

25. The owners of the lumber yard in Pratt street, occupied by A. G. Cole, Coates & Co., are hereby authorized to construct a railway from the said main stem, to and into the said lumber yard, subject, as far as may be, to all the general provisions of this ordinance. The tracks of the railway in Elli-

cott street and Hollingsworth street, shall be hereafter considered and treated in the same manner, to all intents and purposes, as if they had been laid down and constructed under the provisions of this ordinance.

No. 48, s. 1, May 24, '53. What railways may be constructed.

26. Whenever the city commissioner shall receive an application in writing to that effect, from the owner or owners of the major part in extent of front feet of the lots fronting on each side of Clement, River, Jackson, Belt, Great Hughes, Light, Hill and Lee streets, and any streets lying between either of them, or from the major part in extent of front feet of the lots fronting on each side of such part or parts of either of the said streets or intermediate streets through which it may be intended to make a branch railway from the Baltimore and Ohio railroad, they are hereby authorized and directed to contract with the Baltimore and Ohio Railroad Company to lay down and construct a single track of branch railway, of iron and wood, in the same manner and on the same terms and conditions as are contained in the preceding ordinance; and if the said company shall refuse so to contract, the said commissioner may contract with other persons, as is provided in said ordinance.

Ibid, s. 2. Mayor may sign application.

27. The mayor is hereby authorized and directed to sign for the city, in respect of any city property which may front on said streets or any of them, or any part of either of them, designed for the said branch railroad; provided the mayor shall think the interest of the city will be promoted thereby.

Ibid, s. 3. Railway may be laid otherwise than on a street.

28. In case the said commissioner shall deem it expedient to locate any such branch railroad otherwise than on a street or streets, he shall be and is hereby authorized and directed so to do; provided he shall have previously obtained the consent of the holders of the property on which the same may be located, which consent may be given in perpetuity or for a term of years; and the mayor is hereby authorized to agree for the city, in respect of any property belonging to the city, on which it may be proposed to locate any such branch of the line of any street.

Ibid. s. 4. Restrictions.

29. No such branch railroad provided for in this act, shall be carried through any part of any street which may pass through any portion of a ship yard or manufacturing establishment, actually and necessarily in use, without the consent of the owner or owners, or lessee or lessees thereof; and provided further, that nothing herein contained shall withhold from the city the right to take up the same, whenever it may deem it necessary or for its interest to do so.

No. 6, s. 1. Apl. 3, '50. Railroad tracks to be examined.

30. It shall be the duty of the city commissioner from time to time to examine the construction of the several railway tracks authorized by ordinances to be laid within the limits of the city, and to report to the mayor any obstruction or impediment to the ordinary use of any street or streets, caused by the said tracks being improperly laid and not being in conformity with the provisions of the ordinances authorizing their construction; and it shall be the duty of the mayor to enforce the ordinance relating to the removal of said tracks, unless in his judgment the remedy shall be furnished by the enactment contained in the succeeding section.

Ordinance to be enforced.

Ibid, s, 2. Where obstruction, to be removed.

31. It shall and may be lawful for the mayor of the city to exercise his discretion in all cases where an obstruction or impediment is caused by the mode of construction of any railway within the city, to the ordinary use of said street, to have the said track entirely removed, or to have the said track so altered or arranged as to abate the evil complained of, by giving notice to said companies or owners of said railway track, who shall be allowed a reasonable time to make said alteration under the direction of the city commissioner; and upon a failure on the part of said companies or owners to comply with the said notice, it shall be the duty of the city commissioner to have the said work done, and the bills shall be collected from the owners of said railway tracks by legal proceedings, if the same shall be disputed or remain unpaid for the space of thirty days.

Ibid, s. 3. Obstruction of gutters to be removed.

32. It shall be the duty of the city commissioner to examine the construction of said railways, and enforce strictly all the provisions of ordinances relating to the obstruction of the gutters caused by the laying of said railway tracks; and in all cases of obstruction and impediments of any kind arising from the improper construction of railway tracks, in which no other remedy is now provided by ordinance, it shall be the duty of the city commissioner to give notice to the owners of said railway tracks that unless the said obstructions be removed or altered so as to remedy the evil complained of within a reasonable time, that the city commissioner shall proceed to have the said railway reconstructed at the cost of the owners aforesaid.

Ibid. s. 4. Penalty for obstruction.

33. If at any time hereafter any railway shall be constructed within the limits of the city, in the mode or manner so as to obstruct the ordinary use of the street or streets in which the said railway shall be laid down, the owners of said railway shall be subject to a penalty of one hundred dollars, and be liable to a fine of five dollars for each and every day such obstructions shall be permitted to remain after notice of the city commissioner to remove the same.

BALTIMORE CITY PASSENGER RAILWAY.

No. 44, Mar. 28, '59. Empowered to lay tracks on streets.

34. Ordinance No. 44, March 28, 1859, enacted the following: Wm. H. Travers, Wm. S. Browning, Wm. DeGoey, Robert Cathcart, Joshua B. Sumwalt, or a majority of them, and those who now are or who may hereafter become associated with them, and their assigns, are hereby authorized and empowered to lay a double track of city passenger iron railways on Baltimore street, from the western limits of the city to Broadway; thence along Broadway, diverging at Canton avenue, on each side of the market house, to Thames street—the tracks along the market not to be used during market hours—thence along Thames street east to Ann or Wolf streets; thence north to Aliceanna street or Gough street, for the purpose of running thereon passenger cars to be drawn by horse power; and they are also authorized to

lay down a single track on Lombard or Fayette streets, or both, as far as said streets may be graded and paved; and they are hereby further authorized and empowered, for the same purpose, to construct and lay down double tracks of railways upon Charles street, from the northern limits of the city to Read street, thence along Read street to Calvert street, thence along Calvert street to Lexington street, thence along Lexington street to North street, thence along North and South streets to Exchange Place, thence along Exchange Place and Lombard street to Exeter street, thence along Exeter street to Bank street, thence along Bank street to Ann street, thence along Ann street to Aliceanna street, thence along Aliceanna street to Winsor street, thence along Winsor street to Essex street, thence along Essex and Burke streets to Lancaster street, thence along Lancaster street to Chesapeake street, thence along Chesapeake street to Elliott street, and thence along Elliott street to the eastern limits of the city, at Canton; also upon Hanover street or Sharp street, from Baltimore street to Hill street, thence along Hill street to Hanover street, thence along Hanover street to Montgomery street, thence along Montgomery street to Light street, and thence along Light street to Fort street, to be continued by way of Fort and Marshall streets to Ferry Bar, when said Fort street shall have been graded and paved from Fort street to Ferry Bar; also upon Eutaw street, from Baltimore street to Madison street, and thence northwestwardly along Madison street to the city limits, or as far on said street as the same shall have been graded and paved; also upon Green street, from Baltimore street to Pennsylvania avenue, and thence along Pennsylvania avenue to North avenue, or as far on said Pennsylvania avenue as the same may be graded and paved; also a double track upon Gay street, from Baltimore street to Baltimore Cemetery.

Single tracks.

Double tracks.

35. The said railway shall be built under the supervision of the city commissioner and joint standing committee on highways, and the rails shall be of the most approved pattern, and be so constructed and laid down as not to obstruct or

Ibid, s. 2.

Supervision of the building of the road.

Time for completing the tracks.

impede the free flow of water across the streets, or down the gutters thereof; and further, the track upon Baltimore street and Green street, Pennsylvania avenue and Gay street, also the track to the eastern boundary of the city at Canton, and Hanover street, or Sharp street, to the southern section of the city as far as paved, shall be laid down and completed within twelve months from the passage of this ordinance, and the remaining, mentioned in the preceding section, shall be completed as far as the streets therein designated may be graded and paved within such time thereafter as may be determined upon by the mayor and city comptroller, and not to exceed two years after the passage of this ordinance; and in case of failure of the company to comply with this section, they shall forfeit and pay five hundred dollars per month for every month, until this section be complied with.

In case of failure.

Ibid, s. 3. The guage.

36. The guage of said railway tracks shall be the same as that of ordinary street carriages in use in the city of Baltimore, in order to admit of the passage of such carriages upon the tram plate of the said railway; but no vehicles shall be permitted to use said railways for the purpose of carrying passengers for pay or hire.[1]

Ibid, s. 4. Conditions for laying down said tracks.

37. In laying down said railways, the proprietors thereof shall conform to the grades of the several streets used by them, as the same are now or may hereafter be established by law.

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[1] This section further provided that, in no case shall it be lawful to use said railroad cars for the accommodation of passengers on the Sabbath day, under a penalty of fifty dollars for each car so run on the Sabbath day, to be collected as other fines are now collected; but by the act of 1867, c. 344, entitled, an act to provide for the running of the Baltimore city cars on Sunday, the Baltimore City Passenger Railway Company were authorized to run their cars on Sunday to the several termini of their routes, and to provide a sufficient number for the accommodation of the people of the city; provided, the provisions of the act should be submitted to the people of Baltimore for ratification, at the first election to be held in said city next after the passage of the act, (after Mar. 22, 1867.) The citizens of Baltimore accordingly voted on the question, and declared by a majority of votes for the running of the cars on Sunday; and this act was adopted.

38. The cars running upon said railways shall not remain standing on the line of their routes for passengers, but shall be subject to all the police regulations which are now or may hereafter be contained in the ordinances of the city, in regard to railway cars or other vehicles, so far as said regulation may be applicable thereto; and further, the price for transporting passengers from any one part of the city to any other on the line of these railways, shall not exceed the sum of five cents[1] per passenger, and that the sum of twenty dollars shall be paid annually upon each car running regularly on said railway, as license money therefor, to the city register. Ibid, s. 5. Regulations for running cars. Price per passenger. License.

39. It shall be the duty of said company to run cars at intervals of not over ten minutes to the extent of their tracks, from 6 A. M. to midnight, from April first to October first; from 7 A. M. to midnight, from October first to April first, under a penalty of five dollars for each car that does not run to the extent of tracks as embraced in this ordinance, collectable as other city fines are collectable; and further, the running speed upon said roads shall not at any time be at a greater rate than six miles an hour in the built up portions of the city. Ibid, s. 6. Length of time that the cars shall run. Speed.

40. The said company shall, after the passage of this ordinance, cause a book to be opened in this city, for the purpose of receiving subscriptions to the capital stock of said city railways, and the subscriptions to the same from such persons as may wish in their own right to become stockholders therein; and said book shall be opened for the purpose within ninety days from the passage of this ordinance, and its approval by the mayor, and shall be kept open for five days; and the said company shall give notice of the time and place of opening said book in all the daily newspapers of this city ten days previous thereto, and in the event of more stock being subscribed for than said company are authorized to issue, the same shall be divided *pro rata* to each subscriber. Ibid, s. 7. Stock subscription book to be opened. Notice to be given of time. Excess of stock.

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[1] Changed to six cents, &c. See note of acts of assembly, *post*.

Ibid, s. 8. Required to purchase property of omnibus lines.

41. The parties hereby authorized to construct the railways aforesaid, are hereby required to agree with James Mitchell, Coleman & Bailey, and William Robertson, owners of existing omnibus lines in the city of Baltimore, for the purchase of their horses, harness, carriages and stabling, to be paid for in cash before the streets shall be broken for the construction of any part of said railway; and for the purpose of ascertaining the true value or amount to be paid for said property, if the price demanded by said omnibus proprietors be deemed excessive, the parties to this grant shall appoint one referee, and the said omnibus proprietors another referee, who, in the event of disagreement, shall appoint an umpire—the decision of whom shall be final as to the price to be paid as aforesaid; provided, however, that if said omnibus proprietors shall refuse to sell out as provided for in this section, then the said parties authorized to construct passenger railways, shall be authorized to proceed without reference to said purchase from the omnibus proprietors.

In case of disagreement.

Proviso.

Ibid, s. 9, In case of becoming incorporated.

42. If the aforesaid parties, their associates, successors or assigns, shall hereafter become incorporated, the rights and privileges granted to them by virtue of this ordinance shall extend to such corporation upon the conditions herein prescribed, and until such acts of incorporation shall have been obtained, such association shall have all the rights and privileges hereby granted, or the successors of said parties, without further action of the mayor and city council of Baltimore.

Ibid, s. 10. Material, how and where obtained. Labor, how performed.

43. All the cars, iron rail, and other material used and employed in and upon or about the construction and use of said city railways, and all the labor necessary to the building, use and occupation of the same, shall be made, manufactured, employed and obtained in the city of Baltimore, and not elsewhere, unless it shall appear, after due effort by advertisement, that any part thereof cannot be had or obtained within the prescribed limits, in a reasonable time, so as to enable said company to complete said railways within the time limited in this ordinance for the completion of the same,

when after due effort as aforesaid, such part as cannot be had within the limits aforesaid, may be had and obtained elsewhere.

Ibid, s. 11.

How the streets shall be kept, and at whose expense.

44. The owners and proprietors of said railways shall keep the streets covered by said track, and extending two feet on the outer limits of either side of said tracks in thorough repair, at their own expense, and shall free the same from snow or other obstructions, in doing which they shall not cause to be obstructed the other portions of the street on either side of the railway tracks authorized by this ordinance to be constructed, and for non-compliance, the mayor and city council may impose such reasonable fines, not exceeding twenty dollars per square, to be collected as other city fines are now collected.

Penalty for non-compliance.

Ibid, s. 12.

Abandonment of any route.

45. No route or routes of railway authorized to be constructed by the provisions of this ordinance shall be abandoned, or the use of them discontinued, unless a majority of the property holders upon said route or routes shall first assent thereto; in the event of said assent being obtained, said route or routes shall not be again used without the consent of the mayor and city council of Baltimore.

Ibid, s. 13.

Privilege to purchase the stock of city railway.

46. The mayor and city council of Baltimore shall have the privilege, within two years after the expiration of fifteen years from the passage of this ordinance, to purchase and buy out the stock and interest of said association or company, together with such appurtenances belonging to said railways as the said mayor and city council may deem proper, for and at a fair and equitable consideration or value, and in case of a disagreement as to said value and consideration, the mayor and city council aforesaid shall appoint one referee, and the said parties to this grant, or their assigns, shall appoint another referee, who, in the event of disagreement, shall appoint an umpire, the decision of whom shall be final as to the price to be paid aforesaid; and provided further, that if the said mayor and city council shall decline or neglect to give notice to said company of their intention to make said

In case of disagreement as to value of said stock.

purchase within the aforesaid two years, then the grants and privileges herein given to said company shall continue to them or to their assigns, for fifteen years longer, subject to all the conditions and terms contained in this ordinance, and renewable thereafter every fifteen years under the aforesaid terms and conditions.

Ibid, s. 14.

One-fifth of gross receipts to be paid to city register.

47. The said company shall, by their treasurer, under oath, pay into the hands of the city register, quarterly, one-fifth of the gross receipts accruing from the passenger travel upon said roads located within the city limits under this ordinance, or any extension of said limits which may be determined upon hereafter, the same to be applied to the establishment and improvement of the City Boundary avenue as reported upon at the annual session of the mayor and city council of Baltimore in 1853, by commissioners appointed at the annual session of 1851, and to the location, purchase and improvement of such park or parks as may be determined upon hereafter by the mayor and city council of Baltimore, for the benefit of the people of said city; said park or parks not to comprise an area of less than fifty acres each; and the said mayor and city council shall have the power, on the completion of said improvements, to reduce the rate of fare on passenger travel to such limit within the range of one-fifth of the gross receipts of said road as they may deem expedient and advisable, the city at the same time relinquishing its interest in the receipts from said road to the extent of said reduction on said fare.

How it shall be applied.

Power to reduce fare.

Ibid, s. 15.

Guarantees to give bond.

48. The parties hereby empowered to construct a passenger railway aforesaid, shall give bond and security to the mayor and city comptroller, in the sum of one hundred thousand dollars, for the faithful performance of all the obligations and liabilities contained in this ordinance, and to commence the road within sixty days after the passage of this ordinance.[1]

[1] The plaintiff, who was returning from market, accompanied by his wife, ran forward with his market basket on his arm and called to the driver of a street car, who stopped the car; the plaintiff got upon the front platform, placed his basket thereon, and asked the driver to be so kind as to take it, to which the

49. The City Passenger Railway Company, instead of laying down a double track of railway upon Gay street through- No. 3, Nov. 25, '59. Authority to lay a single track on Gay street.

driver assented; the car started immediately, and the plaintiff was thrown off, (or fell in the act of descending,) and was injured. The plaintiff himself never meant to be a passenger, but evidence was given that his wife did intend to ride in the car; this intention, however, on her part was not manifested in any manner to the driver, nor did the plaintiff communicate his own purpose not to ride. Held: a regulation of the City Passenger Railway Company, prohibiting passengers from getting on or off at the front end of any car, and requiring them to enter and descend by the rear platform only, is a reasonable regulation, and knowingly to violate it, without the compulsion of some existing necessity, is conclusive evidence of negligence on the part of the passenger; so that, should he sustain an injury in consequence thereof, he will have no right of action against the company, notwithstanding the driver may also have been negligent.

The circumstance that a driver or conductor may have given permission thus to use the front platform, is immaterial; for the company cannot be bound by the act of their servant in attempting to dispense with a known and positive regulation.

The obligation of a railway company for the safe carriage of passengers, rests upon contract, and while the law casts certain duties upon the company, there is a co-relative obligation upon the passenger to observe the reasonable regulations of the company in entering and leaving the cars, and for the consequences of a breach thereof, the company is not responsible. In such case, the question of negligence on the part of the passenger is a legal question for the court to decide—unlike the case where the facts from which negligence is to be inferred are controverted, or are numerous and complicated, and where no certain legal rule or standard can be laid down, and where, therefore, the question of negligence is necessarily to be submitted to the jury; and where there is thus evidence of a breach of legal duty on the part of the plaintiff causing the accident, and constituting negligence in law on his part, it is error to refuse specific instructions on the subject, even although the jury are correctly instructed in general terms as to the doctrine of contributory negligence. And here, the legal duty imposed upon the plaintiff was clear and well defined, and the failure on his part to perform it, if found by the jury, would constitue negligence in law, which would debar him from the right to recover.

The fact that a legible notice of such regulation was put up inside of all the cars, and the fact that the plaintiff had often previously ridden in the cars, are competent evidence that he had knowledge of its existence.

There being no evidence in the cause that the driver had any knowledge of the purpose of the plaintiff's wife to get on the car as passenger, nor any evidence to charge the defendant by reason of such purpose or intention on his part, a prayer that there was no evidence from which the defendant could be charged with any responsibility, on the ground that the plaintiff's wife was to become a passenger on the car in question, ought to have been granted.

If an accident occur in consequence of violating a regulation of the company, which prohibits the conveyance of baskets or parcels unaccompanied by a passenger, the person participating in such violation, and so sustaining injury, will be debarred from recovering therefor, if it be shown that he had knowledge of such regulation. *B. C. P. R. Co.* v. *Wilkinson*, 30 Md.

out the whole distance from Baltimore street to Baltimore Cemetery, are hereby authorized and empowered to lay down a single track upon such portion of said street as lies between Chesnut street and Chew street; and they are also authorized and empowered to lay down a single track upon Ensor street, from Chesnut street to Chew street, and along Chew street to intersect the double track at Gay street; and all the provisions, conditions and restrictions contained in ordinance No. 44, March 28, '59, in relation to the construction and use of the tracks of railway therein mentioned, shall apply to the said tracks of railway upon Ensor street and Chew street; provided the written consent of the owners of property representing the majority of front feet on the line of said railway tracks on Ensor and Chew streets be first obtained, as provided for by law.

On Ensor and Chew streets.

Proviso.

No. 44, June 28, '60. To lay single track on Greenwillow street.

50. Permission is granted to the City Passenger Railway Company to lay down, construct and use for the space of two years, a single track of railway and the necessary switches on Greenwillow street, connecting the tracks on Pennsylvania avenue with the stables of said company; said track to be laid under the supervision of the city commissioner, and when said track is removed the pavement to be replaced and put in same condition as before; the expense of the same to be paid by the said railway company.

No. 70, Aug. 1, '60. Single tracks on Sharp, Hill and Hanover streets.

51. The City Passenger Railway Company are hereby authorized to construct a single track of tram railway on Sharp street, commencing on the south side of Baltimore street track to Hill street, and a single track along Hill street to Hanover street; also to construct a single track on Hanover street, commencing on the south side of the Baltimore street track to Hill street. From the intersection of Hill and Hanover streets south, the track to be laid agreeably to the provisions of ordinance No. 44, approved March 28th, 1859; said tracks to be constructed in the centre of all the above named streets, at an equal distance from the curb on either side.

Centre of streets.

52. The City Passenger Railway Company shall be allowed to run their cars along Hanover street at the market, during market hours, at a speed not faster than a walk; and also it shall not be lawful at the Hanover market, for any person or persons to obstruct wilfully, the passage of cars, by allowing their vehicles to remain on or about the track. Any person or persons violating the last clause of this section shall be subject to a fine of not less than one or more than five dollars for each and every offence, to be recovered as other fines and forfeitures are now recovered.

Ibid, s. 2.
Speed during market hours.
Obstructing cars.
Penalty.

53. The City Passenger Railway Company is hereby authorized to construct a track or tracks of railway, connecting with their tracks at the intersection of Baltimore and South Gay streets, and extending along South Gay street to its intersection with Second street, and to run thereon the cars of the Green street route and those of the Sharp street route, as two separate and distinct lines—these lines to give and receive transfer tickets as provided for in the act of incorporation of the said company, and they shall place a sufficient number of cars upon the two routes to enable one to be started every ten minutes from each terminus of said routes.

No. 54, Sept. 11, '65.
Changing the route on Gay, Sharp and Green streets.
Transfer tickets.

54. The track or tracks authorized to be constructed by this ordinance, shall in all respects be governed by and subject to the same rules and regulations as are prescribed by the ordinances of the city for the government of other tracks of the City Passenger Railway Company.

Ibid, s. 2.
Tracks constructed subject to rules, &c.

55. The Baltimore City Passenger Railway Company are requested and hereby authorized and empowered to lay a single track of railway on Gay street, from the bridge over Jones' Falls to Chesnut street, in place of the two tracks as at present, and the said single track shall be laid in the centre of the street.

No. 56, Sept. 29, '65.
Single track on Gay street.

56. The City Passenger Railway Company are hereby authorized and empowered to construct a double track of railway on North avenue, between Madison and Pennsylvania

No. 9, Feb. 23, '66
Double track on North avenue and Holliday street.

avenues, to connect the two lines on said avenues together, and also to construct a double track on Holliday street, between Baltimore and Fayette streets, to be the terminus and starting point for a new line, to run between Holliday street and North avenue; and the said tracks authorized to be constructed by this ordinance, shall in all respects be governed by and subject to the same rules, regulations and conditions as are prescribed by the ordinance of the city for the government of other tracks of the City Passenger Railway Company, approved March 28, 1859; provided, that whenever Holliday street shall be opened south of Baltimore street, the terminus or starting point shall be removed to and made in Holliday street, between Baltimore and Second streets.

How governed.

Proviso.

Ibid, s. 2. One-fifth of gross receipts to city.

57. The above grant shall in all respects be subject to the ordinances of the city, especially in relation to the payment of one-fifth of the gross receipts thereof into the city treasury.

No. 21, s. 1, May 11, '69. Tracks on High and Albemarle streets.

58. The Baltimore City Passenger Railway Company are requested and hereby authorized and empowered to lay tracks of their railways on High and Albemarle streets, connecting with their tracks on Baltimore street, for the purpose of running the cars of the Pennsylvania avenue line from its present terminus at North avenue to the President street station of the Philadelphia, Wilmington and Baltimore railroad; and the said company is further authorized and empowered to extend their tracks from the intersection of Calvert and Lexington streets, along Calvert street to connect with their tracks on Baltimore street, and to run over the tracks thus connected, a line of cars from the present terminus on North Charles street to the present terminus on Light street, thereby enabling passengers to reach either the Baltimore and Ohio or the Northern Central railway stations by the city cars.

President street station.

Calvert and Lexington streets.

B. & O. R. R. station.

N. C. R. W. station.

Ibid, s. 2. Tracks on Townsend street to Lafayette square.

59. The said company are hereby authorized and empowered to lay a line of railway tracks from the intersection of Townsend street and Pennsylvania avenue on Townsend street

and La Fayette square, and to run a portion of the cars of the Pennsylvania avenue line, not exceeding one half, over said track to La Fayette square.

60. The said company are hereby authorized and empowered to remove their tracks from Lexington and North streets. Ibid, s. 3. Removal of tracks on Lexington and North streets.

61. The said company are hereby authorized and empowered to lay a line of railway tracks from the intersection of Baltimore street with Broadway, along Baltimore street to Gist, and along Gist street to Patterson Park, and to run a portion of the cars of the Madison avenue and Broadway line to said park. Ibid, s. 4. Tracks on Baltimore street. Patterson Park.

62. The said company in the construction of the tracks authorized by the four preceding sections hereof, shall be in all respects governed by and subject to the rules and regulations prescribed by the ordinance under which the said company were empowered to lay down their present tracks.[1] Ibid, s. 5. How governed.

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[1] 1861–62, c. 71, enacted that: 1. Henry Tyson, John W. Walker, William Chesnut, John W. Randolph, Conrad S. Grove, Jonathan Brock and Albert W. Markley, and others, their associates, assignees of all the rights, powers and privileges granted to William H. Travers, William S. Browning, William D'Goey, Robert Cathcart and Joshua B. Sumwalt, and their associates and assigns, by an ordinance of the mayor and city council of Baltimore, approved on or about the twenty-eighth of March, eighteen hundred and fifty-nine, are incorporated by the name and style of the Baltimore City Passenger Railway Company, and by that name shall have perpetual succession, and be capable to sue and be sued, to make and use a common seal, to make and pass by-laws, to acquire and hold all necessary real estate, and in general to have and exercise all such other corporate powers and faculties as may be necessary and proper to effectuate the purpose of this act.

2. That the corporation by this act created is hereby vested with all the rights, powers and privileges given and granted by the ordinance before mentioned, to be by the said corporation held, enjoyed and exercised in manner and form, and upon the terms and conditions, and subject to the restrictions and limitations therein contained, except where the provisions of said ordinance may be inconsistent with this act or any part thereof; and upon the acceptance of this act by the said Henry Tyson, John W. Walker, William Chesnut, John W. Randolph, Conrad S. Grove, Jonathan Brock and Albert W. Markley, and others,

their associates, all railways, railway cars, horses, and other property of every description, real, personal and mixed, acquired and held by them for the purposes mentioned in, and to carry out the provisions of the aforesaid ordinance, shall be and they are hereby vested in said corporation.

3. That the corporation hereby created is also vested with all necessary power and authority to lay down and construct, and to use and operate passenger railways in any street, or streets, in the city of Baltimore, other than those named in the said ordinance, with the consent of the mayor and city council of Baltimore, and with the restrictions and limitations, and upon the terms and conditions in the said ordinance mentioned; provided, that the said mayor and city council shall have the privilege, within two years after the expiration of fifteen years from the date of the passage of said ordinance, to purchase and buy out the said corporation, and all its property and franchises, whether originally conceded by the ordinance aforesaid, or granted by this act, for and at a fair and equitable consideration or value, and in case of a disagreement as to the said value and consideration, the mayor and city council aforesaid shall appoint one referee, and the corporation hereby created shall appoint another referee, who, in event of disagreement, shall appoint an umpire, the decision of whom shall be final as to the price to be paid as aforesaid; and provided further, that if the said mayor and city council of Baltimore shall decline or neglect to give notice to the said corporation of their intention to make said purchase within the aforesaid two years, then the grants and privileges held and enjoyed by said corporation, shall continue to belong to it for fifteen years longer from the expiration of said original fifteen years, subject to all the terms and conditions imposed and recognized by this act, and continuable thereafter in like manner from time to time as aforesaid, upon the said terms and conditions.

4. That the corporation hereby created is hereby required to pay over to the register of the city of Baltimore, the one-fifth portion of the whole passenger receipts of this corporation, at or before the stated periods named in the aforesaid recited ordinance of the city of Baltimore; in default of which payments, on or before the days appointed therefor, this corporation shall be liable to the penalty of one hundred dollars for each day of the continuance of such default, after ten days after the expiration of each quarter, to be recovered by the said city of Baltimore according to law; provided further, that the said corporation shall be subject to such police regulations as the mayor and city council of Baltimore may hereafter, from time to time, enact by ordinance for the government of their conduct in the performance of their duties under this law; and provided also, that said corporation hereby created, shall provide books in which shall be entered by a treasurer, under oath, the weekly receipts of said company, and that said books shall be open to the inspection of the mayor and city council of Baltimore.

5. That the capital stock of the said corporation shall consist of forty thousand shares of the par value of twenty-five dollars per share, to be distributed among the said Henry Tyson, John W. Walker, William Chesnut, John W. Randolph, Conrad S. Grove, Jonathan Brock, and Albert W. Markley and others, their associates, in proportion to their several and respective interests in and under the said ordinance, to be by them ascertained at the time of their acceptance of

this act; and the property of the said Henry Tyson, John W. Walker, William Chesnut, John W. Randolph, Conrad S. Grove, Jonathan Brock and Albert W. Markley, and others, their associates, hereby vested in the said corporation, shall be estimated as of the value, and taken and accepted by the said corporation as a payment of fifteen dollars and seventy-five cents per share on the capital stock of the said corporation; and that the said corporation shall have power, from time to time, to call in such further instalments on said capital stock, but none other, as shall be found necessary to carry into effect the purposes of this act; the said instalments to be paid by the holders of the said capital stock, at the time and times at which such calls shall be actually made; provided, such further instalments, with the payment of fifteen dollars and seventy-five cents to be made by the transfer of the property of the said Henry Tyson, John W. Walker, William Chesnut, John W. Randolph, Conrad S. Grove, Jonathan Brock and Albert W. Markley, and others, their associates as aforesaid, shall not exceed in the whole the sum of twenty-five dollars per share.

6. That the management of said corporation shall be vested in a board of seven directors, to be elected by the stockholders thereof, at a general meeting to be convened for that purpose, at some certain time in Baltimore city, to be prescribed by the by-laws of said corporation, and after fifteen days notice given of such election by advertisement in some two or more of the daily newspapers printed in the city of Baltimore. The first election shall be held at the office of the Baltimore City Passenger Railway Company in the city of Baltimore, between the hours of ten o'clock, A. M., and three P. M., on the fourth Wednesday in the month of May next succeeding the passage of this act; and if any elections of directors, including the first, shall not be made on the days appointed as aforesaid, such may be made after like notice at any time within three months thereafter; and the treasurer and a majority of the seven directors of said company, shall be citizens of Maryland. The directors, for the time being, shall hold and exercise their office until such new election shall be made, and until the acceptance thereof by the new board, or the major part of the members thereof, and any vacancy which may happen in any board of directors, by refusing to serve or otherwise, shall be filled by the remaining members thereof. In all elections and on all questions touching the business and affairs of said corporation at a general meeting of the stockholders, each share shall be entitled to one vote, to be given by the stockholders in person or by proxy, in such form as the by-laws shall determine.

7. That every board of directors at its first meeting, or as soon thereafter as may be practicable, shall appoint one of their own number to be president of said corporation, and they shall also 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 any of the same to remove at pleasure, and to re-appoint, and to define their duties and fix their compensations, to declare dividends of profits and to exercise all other of the franchises of said corporation, subject nevertheless to the by-laws, or other act or acts, or resolution or resolutions of the stockholders adopted at a general meeting thereof.

8. That the capital stock of the said corporation shall be deemed personal property, and shall be transferable on the books of the corporation in such man-

ner as the by-laws shall prescribe, and the principal office of said company for the transfer of stock and general business, shall at all times be located in the city of Baltimore.

9. That this act shall go into operation immediately after the passage thereof, (Feb. 13, 1862,) and after the said Henry Tyson, John W. Walker, William Chesnut, John W. Randolph, Conrad S. Grove, Jonathan Brock and Albert W. Markley, and others, their associates, or their attorneys or agents, shall declare their acceptance thereof by writing under their hands or the hands of their attorneys or agents, to be executed in duplicate, and shall file one of the said duplicates with the clerk of the Superior Court of Baltimore city, for enrolment among the land records of said city, and deliver the other to the register of the city of Baltimore.

10. That the Baltimore City Passenger Railway Company hereby incorporated, shall not be authorized by anything contained in this act to exercise banking privileges, or to issue any note, token, device, scrip or other evidence of debt, to be used as a currency.

11. That the said company shall forfeit and lose all the rights and franchises granted by this act, unless the said company shall build, equip and stock, and run their cars upon, in accordance with the ordinance aforesaid, the track to be laid from the intersection of Baltimore street and North street, out North to Lexington, along Lexington to Calvert, along Calvert to Read, along Read to Charles, and out Charles street to the city limits—the same to be continued and in full running order on or before the first day of January, eighteen hundred and sixty-three.

12. That the general assembly hereby expressly reserves the power at all times to repeal, alter or amend this charter.

The act of 1864, c. 170, recites that: whereas, the act of 1861-'62, c. 71, granted to the Baltimore City Passenger Railway Company, under the provisions of an ordinance of the mayor and city council of Baltimore, the right to receive the sum of five cents for transporting each passenger from any one part of the city of Baltimore to any other part on the line of their railways; the said ordinance further providing that one-fifth of the receipts of the said company from passengers shall be paid to the register of the city of Baltimore, to be applied to the purchase, location and improvement of such park as may be determined upon, for the benefit of the people of said city; and whereas it has been shown by the, president and directors of the Baltimore City Passenger Railway Company that, with the utmost economy they have been able to introduce into their management, the present rate of fare is inadeqate to pay the cost of working their railways and for keeping the track and equipment thereof in proper condition; and whereas, the said company, after complying with the requirements of the act of incorporation, and having paid one-fifth of their receipts from passengers to the register of the city of Baltimore, and after an entirely unremunerative service of over four years, find themselves further embarrassed by the unprecedented advance in the price of labor and material; therefore, it enacts that the Baltimore

City Passenger Railway Company is authorized and empowered to charge and collect six cents fare from each passenger passing from any one part of the city of Baltimore to any other part on the line of their railways, without charge for transfer tickets, and one-fifth of the gross receipts from passengers, to be paid to the register of the city of Baltimore, as provided for by the ordinance of the mayor and city council of said city.

1865, c. 100, recites that: whereas, in consequence of the further and extraordinary increase in the cost of labor and materials, it has become necessary that the Baltimore City Passenger Railway Company should have more effectual relief than was sought to be provided by the act passed the seventh day of March, eighteen hundred and sixty-four, supplemental to the act to which this is a supplement; and whereas, it is not deemed expedient, having due regard either for the interest and convenience of the public, or the welfare of the said company, that the rate of fare for a single passenger in the same car should be increased beyond six cents; now, therefore,

1. It enacts that the Baltimore City Passenger Railway Company are authorized and empowered to charge and collect six cents from each passenger passing from any part of the city of Baltimore to any other part, in any line of their railways, with a charge for transfer tickets of four cents; and one-fifth of the gross receipts from passengers, to be paid to the register of the city of Baltimore, as provided for by the ordinance of the mayor and city council of said city.

2. That the act passed at the January session, eighteen hundred and sixty-four, chapter one hundred and seventy, entitled "A supplement to an act entitled an act to incorporate the Baltimore City Passenger Railway Company," and so much of the original act to which this is a supplement, as are inconsistent with the provisions of this act, are hereby repealed.

3. That the said railroad company shall be and are compelled to run not less than four cars from the end of the line on Thames street, to the end of the line at Canton.

4. That the general assembly hereby expressly reserves the power at all times to repeal, alter or amend this act.

As to Sunday cars, see *note*, p. 584, *ante*.

BALTIMORE AND YORKTOWN TURNPIKE ROAD.

No. 7, s. 1, Feb. 17, '63. Authorized to lay tracks on North avenue, &c.

63. The president, managers and company of the Baltimore and Yorktown Turnpike road are hereby authorized and empowered to lay down a double track of the city passenger railways on North avenue, from Greenmount avenue to North Charles street, and on Greenmount avenue from the city limits to Forrest street, and on Forrest, Hillen and East streets to Gay street, so as to connect with the city passenger railways at those points.[1]

Ibid, s. 2. City commissioner to superintend.

Conform to grades.

Not to obstruct water courses.

64. The said railways shall be built under the superintendence of the city commissioner; the rails to be similar in all respects to those now in use for passenger railways in this city; to be so laid down as to conform to the grades of the several streets as they are now, or may hereafter be established, through which they pass, and so as not to impede or obstruct the free flow of water in the streets or gutters thereof. The guage of said railways also to be the same as that of the passenger railways now in use in this city, so as to allow vehicles to run upon the tram plate of the rail; but no vehicle shall be permitted to use said railways for the purpose of carrying passengers for pay or hire.[2]

Passengers for pay or hire.

Ibid, s. 4. Cars not to remain standing on street. Subject to police regulations.

65. The cars running upon said railways shall not remain standing on the line of these routes for passengers, and shall be subject to all the police regulations as to speed and otherwise, that are now, or may hereafter be prescribed by ordin-

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[1] This ordinance recites that, by enactment of the General Assembly 1860, c. 259, the president, managers and company of the Baltimore and Yorktown Turnpike Road is authorized to extend the railways authorized to be built under that act, into the city of Baltimore, to such point or points, through such streets or ways, and to connect, or cause the same to be connected, with such of the railway track 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.

[2] Section 3 provided that the cars should not be run on Sunday; but, by act of 1868, c. 308, the company is authorized to run its cars on that day.

ances of the city in regard to railway cars or other vehicles, so far as said regulations may be applicable thereto; and further, the price of transporting passengers on the track of railways hereby authorized to be laid down on Greenmount avenue, Forrest, Hillen and East streets, for any distance, shall be five cents for each person over ten years of age, and for children ten years old and under, a sum not exceeding three cents each, and over the track on North avenue, two cents for each person over ten years of age, and for children ten years old and under, one cent each. Fare.

66. The president, managers and company of the Baltimore and Yorktown Turnpike Road, shall keep the streets covered by said tracks, and extending two feet over the outer limits of either side of said tracks, inclusive, in thorough repair, at their own expense, and shall free the same from snow and other obstructions, in doing which they shall not cause to be obstructed the other portion of the streets, and for every non-compliance with this provision, the said company shall forfeit and pay a fine of twenty dollars per square, to be collected as other fines are now collected. Ibid, s. 5. Streets to be repaired at expense of company. Snow and other obstructions. Penalty.

67. The president, managers and company of the Baltimore and Yorktown Turnpike road shall, by their treasurer under oath, pay into the hands of the city register during the first ten days of January, April, July and October, in each and every year, commencing for the first of said payments in October, 1863, one-fifth of the gross receipts accruing from passenger travel upon said railways within the limits of the city, as hereby authorized; and in default of the payment being made within the ten days appointed, the said Baltimore and Yorktown Turnpike Road Company shall be liable to the penalty of fifty dollars for each and every day during the continuance of such default, to be recovered as other fines and forfeitures are now recoverable; said receipts to be applied to the establishment and improvement of the City Boundary avenue, as reported upon at the annual session of the mayor and city council of Baltimore in 1853, by commissioners ap- Ibid, s. 6. One-fifth of gross receipts to city register. Penalty. City Boundary avenue.

pointed at the annual session of 1851, (Res. Nos. 124 and 138,) and to the improvement of Druid Hill and Patterson Parks, and such others as may be determined upon hereafter.

Ibid, s. 7. Right to change price of fare.

68. And it is hereby made a condition precedent to the acceptance of the provisions of this ordinance by the said Baltimore and Yorktown Turnpike Road Company, that the mayor and city council of Baltimore shall have the right and privilege to alter and modify the price for carrying passengers, within the limits of the city, at any time hereafter when they may deem it expedient for the public good.

Ibid, s. 8. Forfeiture of right.

69. Should the Baltimore and Yorktown Turnpike Road Company fail to commence the construction of the railways hereby authorized to be laid down, before the first day of May, 1863, and complete them before the first day of November next ensuing, or should it fail to run its cars daily on the two routes hereinbefore designated, according to the true intent and meaning of this ordinance, for the space of one year after having commenced the same, then, and in either case, the said company shall forfeit all rights and privileges granted under and by authority of this ordinance.

No. 15, Mar. 21, '63. Tracks on Northern Boundary avenue, &c.

70. The president, managers and company of the Baltimore and Yorktown Turnpike road, are hereby authorized to construct temporary tracks of passenger railways on Northern Boundary avenue from Greenmount avenue to Charles street: the work to be done under the supervision and subject to the approval of the city commissioner; provided, however, and it is hereby made a condition precedent to the acceptance of this ordinance by the said president, managers and company, that when that portion of Northern Boundary avenue as aforesaid has been paved and graded, they, the said president, managers and company will without delay remove the tracks herein authorized to be temporarily constructed, and put down tracks of railway similar to those now in use by the Baltimore City Passenger Railway Company, subject to all the conditions contained in the ordinance of Feb. 17, '63, No. 7.

Proviso.

71. The president, managers and company of the Baltimore and Yorktown Turnpike road are hereby authorized and empowered to construct a track of passenger railways upon Hillen and Holliday streets, joining with their tracks at the corner of East and Hillen streets, and terminating at the intersection of Holliday street and Lexington street; provided however, and it is hereby made a condition precedent to the acceptance of this ordinance by said president, managers and company, that said track shall be removed at any time after six months' notice to that effect by the mayor and city council.

No. 40, June 20, '65. Construct tracks on Hillen and Holliday streets. At six months' notice to remove tracks.

72. The president, directors and company of the said Baltimore and Yorktown Turnpike road shall, in the working of the extension authorized to be made by this ordinance, be governed by and subject to all the provisions of the ordinance of Feb. 17, '63, No. 7.[1]

Ibid, s. . Subject to what ordinance.

DRUID HILL PARK RAILWAY.

73. Should the park commission deem it expedient, they may, under the direction of the city commissioner, lay down railway tracks on the North avenue, between Madison lane and the Reisterstown road, with a view of facilitating the railway access to Druid Hill Park, subject to the same conditions as those established in the similar grant hereinbefore made to the president, managers and company of the Baltimore and Yorktown Turnpike road, and the said commission may delegate this power for a period not exceeding five years to any party with whom they may agree for the construction of a railway track or tracks to or within the park.

No. 37, s. 4, May 2, '63. Park commission to lay railway tracks on North avenue, &c.

74. It shall be lawful for the person or persons with whom the park commission may contract to run the cars upon the route built by them, and commencing at the intersection

No. 39, June 14, '65. Route.

[1] The Baltimore, Catonsville and Ellicott's Mills Passenger Railway from the western limits of the city of Baltimore, to the village of Catonsville, (and thence authorized to Ellicott City and Clarksville,) was constructed under 1860, c. 34, and 1865, c. 63.

of North avenue and Madison lane, and ending at a point near the pavilion in Druid Hill Park, to charge the following rates of fare, viz: five cents for each person each way, and three cents for each child under twelve years of age each way.[1]

Fare.

HOWARD STREET.

No. 39, s. 1, June 10, '54. Conveyance of right to private railway tracks.

75. Whenever a majority of the property holders, proprietors of the railway track in Howard street, between Pratt and Franklin streets, shall convey to the mayor and city council of Baltimore all right and title they now hold or ever possessed in said railway track, constructed under an ordinance approved April 6th, 1832, No. 41, (secs. 19–25, *ante*,) and when such conveyance, properly authenticated and approved by the

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1 1. By 1861–'62, c. 258, John W. Randolph, William Chesnut, William H. Cathcart, Jonathan Brock and Ephraim Hoffman, and their associates, succes sors and assigns, were created a corporation and body politic, by the name and style of the City Park Railway Company, and by that name to have perpetual succession, and be able and capable in law to sue and be sued, to make and use a common seal, to ordain and pass by-laws and regulations, necessary for conducting the affairs of the corporation, to acquire and hold all necessary real estate, and in general to have and exercise all such other corporate powers and faculties proper to effectuate the purposes of this act.

2. The object of the said corporation is to be the building, construction and working of a passenger railway in Baltimore county, from Druid Hill Park, to connect with the Baltimore City Passenger Railway Company, at any or al of the different termini of said company's roads on the Northern avenue of said city.

3. The corporation hereby created is vested with all necessary power and authority to lay down, construct and to use and operate passenger railways, with double or single tracks, over the roads known as Madison avenue extended, Pennsylvania avenue, or any other road, made or to be made between said Druid Hill Park and the Northern boundary of Baltimore city.

4. The capital stock of this corporation shall consist of three thousand shares of the par value of twenty dollars per share.

5. The said company shall for running the cars on said route, be entitled to charge no more than three cents a passenger, for the trip between the said park and Northern avenue, and five cents for the round trip.

6. The City Park Railway Company hereby incorporated, shall not be authorized by anything contained in this act, to exercise banking privileges, or to issue any note, token, device, scrip, or other evidence of debt, to be used as a currency.

city counsellor, shall have been deposited with the register of the city, then the Baltimore and Ohio Railroad Company are hereby authorized and empowered, with the authority of the mayor, to take possession of the railway track, as aforesaid, to hold and enjoy the same as their property as fully as they do any portion of their road, entitled to all the privileges and subject to all the penalties conferred and imposed on said company by its charter and the supplements thereto, and to any ordinances of the city of Baltimore now existing, or that may hereafter be enacted, relating to railway tracks within the city limits; provided the said company reconstruct the railway track as aforesaid within six months from their acceptance of the same; the work of reconstruction to be done under the direction and supervision of the city commissioner.

B. & O. Railroad Co. to have the right.

Reconstruction

76. In the event of the conveyance of the railway track as aforesaid, then and in that case said company shall deliver tonnage to all persons doing business on the line of said track, coming from the road of said company, as is the custom now and has been heretofore; and will continue to deliver tonnage as aforesaid, on the same terms, and as long as said company shall deliver tonnage in other parts of the city.

Ibid, s. 2.

Rate at which tonnage is to be charged.

77. The Baltimore and Ohio Railroad Company are hereby authorized, under the superintendence of the city commissioner, to remove the railroad track on Howard street, south of Franklin street, and to construct a new and substantial track in place thereof, of wood and iron, and to connect the Howard street track, south of Lee street, with the track of the said company in Ohio avenue, with the consent of the owner or owners of the property over which it may be necessary to pass in making such connection.

No. 12, Apl. 4, '62.

B. & O. R R. Co. to remove track.

Construction of new track.

78. The said company are hereby authorized to use locomotive engines, propelled by steam, for the transmission, when absolutely necessary, of government freight, upon the rail road track between Bolton depot and Camden Station, and upon the connection with the track in Ohio avenue, at a

Ibid, s. 2.

Engines.

speed not exceeding four miles an hour; provided that the bell of the engine be rung during the passage thereof between the said points; and further, the use of steam, except for army purposes, is hereby restricted to the hours between eleven o'clock, P. M., and sunrise, during which time the ringing of the bell of the engine shall be dispensed with, and a man shall be employed, whenever the train is in motion, during the day or at night, to precede it on horseback, for the purpose of keeping the track clear.

Bell of engine to be rung. Steam.

Man to precede train.

Ibid, s. 3. Penalty.

79. For every violation of any of the provisions of the two preceding sections, the said company shall forfeit and pay twenty dollars, to be recovered before a justice of the peace of said city; and further, the present owners and occupiers of property connected with the present railway track on Howard street, are not to be deprived of any rights or privileges existing and enjoyed at the time of the passage of this ordinance.[1]

OTHER RAILWAYS.

No. 70, s. 1, July 9, '68. Authority to lay railway on certain streets.

80. Samuel Snowden, Jacob Rice, Matthew B. Sellers, John Richardson, Captain George A. Coleman, James S. Hagerty, Dr. J. J. Morman, William J. Hooper, or a majority of them, and those who now are or may hereafter become associated with them and their assigns, are hereby authorized and empowered to lay a double track of city passenger iron railways, commencing on Gough street at Patterson Park, and running thence westerly on Gough street to Ann street; thence northerly along Ann street to Pratt street; thence westerly along Pratt street to Albemarle street; thence northerly along Albemarle street to Lombard street; thence westerly along Lombard street to Exchange Place; thence a single track westerly along Lombard street to Charles street; thence still on Lombard street a double track to Fremont street; thence northwesterly on Fremont street to Lexington street; thence

[1] By Res. of May, 1869, it is provided that the railroad track on Howard street, north of Baltimore street, shall be removed on and after May 1, 1871.

westerly along Lexington street to Republican street; thence northerly on Republican street to Mosher street; thence easterly along Mosher street to Oregon street; thence northerly along Oregon street to Fremont street; thence northwesterly along Fremont street to Presstman street; thence easterly along Presstman street to Division street; thence northwesterly along Division street to Northern Boundary avenue. And they are further hereby authorized and empowered to construct and lay down a single track or iron railway, commencing where the aforesaid double track on Pratt street connects with the aforesaid double track on Albemarle street to a point on said Albemarle street opposite to where the depot buildings of the Philadelphia, Wilmington and Baltimore Railroad Company now stand, for the purpose of running on said single and double tracks or railways, passenger cars to be drawn by horse power.

Ibid, s. 2. How to be built.

81. The said railway shall be built under the supervision of the city commissioner, and the rails shall be of the most improved pattern, and the said tracks in their guage to be the same as that of the Baltimore City Passenger Railway, and to be so constructed and laid down as not to obstruct or impede the free flow of water across the streets or down the gutters thereof.

Ibid, s. 3. Grades of streets.

82. In laying down said railways, the proprietors thereof shall conform to the grades of the several streets used by them, as the same are now or may hereafter be established by law; and further, that no street vehicles shall be permitted to use said railways for the purpose of carrying passengers for pay or hire.

Ibid, s. 4. Cars not to remain standing. Police regulations.

83. The cars running upon said railways shall not remain standing on the line of their routes for passengers, but shall be subject to all the police regulations which are now or may hereafter be contained in the ordinances of the city in regard to railway cars or other vehicles, so far as the said regulations may be applicable thereto; and further, the price for transporting passengers from any one part of the city to

any other, on the line of these railways, shall not exceed the sum of seven cents per passenger, and the sum of twenty dollars shall be paid annually upon each car running regularly on said railways, as license money therefor to the city comptroller.

Fare not to exceed seven cents.

License.

Ibid, s. 5. Opening of stock book.

84. The grantees aforesaid, their associates or assigns, shall, after the passage of this ordinance, cause a book to be opened in this city for the purpose of receiving subscriptions to the capital stock of said city railways, and the subscriptions to the same, from such persons as may wish in their own right to become stockholders therein; and the said books shall be opened for this purpose within ninety days from the passage of this ordinance and its approval by the mayor, and shall be kept open for five days, and said grantees shall give notice of the time and place of opening said book, in at least three of the daily newspapers of this city, ten days previous thereto.

Ibid, s. 6. If incorporated.

85. If the aforesaid grantees, their associates or assigns, shall hereafter become incorporated, the rights and privileges granted to them by virtue of this ordinance, shall extend to such corporation upon the conditions herein prescribed.

Ibid, s. 7. Streets to be kept in repair.

86. The owners and proprietors of said railways shall keep the streets covered by said tracks, and extending two feet on the out limits of either side of said tracks in thorough repair, at their own expense, and shall free the same from snow or other obstructions, and in doing which they shall not cause to be obstructed the other portions of the streets on either side of the said railway track, and for the non-compliance herewith, the mayor and city council may impose such reasonable fines, not exceeding twenty dollars per square, to be collected as other fines are now collected.

Snow, &c.

Ibid, s. 8. One fifth of receipts to Park fund.

87. The aforesaid grantees, by their treasurer, under oath, shall pay into the hands of the city register, quarterly, one-fifth of the gross receipts accruing from the passenger travel upon said roads, or any extension thereof, which may be determined upon hereafter, the same to be used and applied

to the park fund, as is now paid by other passenger railway companies.

88. The parties hereby empowered to construct the passenger railways aforesaid, shall give bond and security to the mayor and city comptroller, in the sum of fifty thousand dollars, for the faithful performance of all the obligations and liabilities contained in this ordinance. Ibid, s. 9. To give bond.

89. The parties herein named shall not be required to lay down the railways aforesaid upon any of the streets hereinbefore named, until the same shall have been graded and paved. Ibid, s. 10. Streets.

90. If the grantees shall deem it expedient, in consequence of the narrowness of any street or streets upon which double tracks of railways are authorized to be laid, to dispense with the use of one track, then it shall and may be lawful for them to do so; provided, the city commissioner shall approve such change. Ibid, s. 11. Double or single tracks. Proviso.

91. Permission is hereby granted to Daniel C. Bruce to lay down and construct a track, under the supervision of the city commissioner, from his coal yard on the southeast corner of Pratt and Green streets, to connect with the track of the Baltimore and Ohio railroad on Pratt street; the cost of the same to be defrayed by the said Daniel C. Bruce. No. 23, Feb. 23, '59. Railroad switch to B. & O. R. R.

92. The said Daniel C. Bruce shall keep the street within said track, and two feet on the outside of the same, in thorough and complete repair, and the said track shall be removed whenever six months notice to that effect shall have been given by the mayor and city council. Ibid, s. 2. Conditions. Notice.

93. Edward D. Onion is hereby authorized and permitted to construct a switch or turn-out from the railroad track on North street, near Madison street, to run into the coal yard located on the east side of said North street, and near Madison street; the same to be done to the satisfaction and under the superintendence of the city commissioner, to be removed, however, after six months notice to that effect shall have been given by the mayor and city council. No. 90, June 14, '59. Railroad switch on North street. Notice.

No. 1, Nov. 16, '59.
Railroad switch on Holliday street.
Proviso.
Notice.

94. John T. Ford is hereby empowered to lay down and construct a railroad switch, with necessary sidelings, on Holliday street, from Baltimore street to Orange alley; provided the same be done under the supervision of the city commissioner, and to be removed at any time after six months notice from the mayor and city council.

No. 101, Oct. 18, '60.
Baltimore and Ohio R. R. to lay track on Concord street.
Proviso.

95. The Baltimore and Ohio Railroad Company are hereby authorized to introduce, construct and lay down a single track or railroad of wood and iron from the intersection of Pratt and Concord streets, through Concord street to the south side of the Fish Market space; the work to be done to the satisfaction of and under the superintendence of the city commissioner; provided, that the consent of the owners or a major part in extent of front feet of the lots fronting on each side of any street through which said track is proposed to be extended, shall be first obtained in writing and deposited with the city register.

No. 14, Apl. 18, '62.
Canton Company to construct a track on Chester and Aliceanna streets.
Proviso.
Track, how constructed.

96. The Canton Company are hereby authorized to construct a railway track on Chester and Aliceanna streets, between their warehouses, situate on the south side of Aliceanna street, east of Chester street, and the track of the Philadelphia, Wilmington and Baltimore Railroad Company on Boston street; provided the written consent of the owners of a majority of the front feet of property on the streets along which said track is proposed to be laid be first obtained; the work to be done under the superintendence of the city commissioner. The track laid under the authority hereof shall be constructed in conformity with the conditions of the ordinances in this article intended to prevent the obstruction of travel upon streets[1]

[1] Ord. No. 42, June 2, '62, enacts: that upon the railway tracks authorized to be constructed by the above ordinance, the Philadelphia, Wilmington & Baltimore Railroad Company are authorized, with the consent of the Canton Company, to use locomotive engines; subject, however, to the conditions of the ordinance regulating the speed of locomotives within the city of Baltimore. (See secs. 13–18, *ante*.)

97. The Atlantic Marine Railway Company is authorized to extend its railway one hundred and seventy-five feet beyond the port warden's line, in such manner that said railway shall be laid below the bed of the river so far as it shall extend beyond said line.

No. 96, Oct. 22, '64. Atlantic Marine Railway Company authorized to extend railway beyond port warden's line.

98. The said railway company are authorized to drive piles in the river to extend not more than one hundred and fifty feet beyond the port warden's line, and erect thereon a platform for the purpose of protecting said railway, and to adjust vessels on the railway preparatory to hauling them up on the ways.

Ibid, s. 2. Drive piles.

99. The consent of the owners of the adjoining wharf property shall be filed in the office of the port warden before said extension is made and the platform is built.

Ibid, s. 3. Consent of owners.

100. Permission is granted to Priscilla A. Dougherty to change, at her own cost, the location of the railroad switch on Central avenue and Union alley—said change to be made under the direction of the city commissioner.

Res. No. 155, May 12, '69. Switch on Central avenue changed.

101. Permission is granted to G. K. Tyler to put in, at his own cost, a switch on the south side of Boston street, to connect with the Philadelphia, Wilmington and Baltimore railroad, and run thence to the wharf of said Tyler on Harris' creek; the placing of the said switch to be done under the direction of the city commissioner.

Res. No. 149, May 12, '69. Switch on Boston street.

102. Whitelaw & Fenhagen are authorized and permitted to construct a railroad track in the bed of Aliceanna street, from its present terminus at Chester street, to the foot of Washington street; provided, the said work shall be done under the supervision of the city commissioner, who shall be satisfied that the ordinances relating to and controlling the construction of railroad tracks in the streets of the city have been, in all respects, complied with by the owners or builders of said tracks.

Res. No. 184, June 21, '69. Track on Aliceanna street.

Proviso.

BALTIMORE AND OHIO RAILROAD.

No. 28, Mar. 28, '29.
Authorized to introduce railroad into city.

103. Ordinance No. 28, March 28, 1829, enacted the following: The president and directors of the Baltimore and Ohio Railroad Company are hereby authorized to introduce and construct said road from the first stone, at the western boundary of the city, to Baltimore street, along or near to the line as laid down by the board of engineers, in their report, dated January 31, 1829, a copy of which report, with the seal of the said company, and the plats and documents accompanying the same, shall be filed in the register's office; provided, the president and directors in the construction of said road, shall not deviate from the elevation of sixty-six feet, as designated by said report.[1]

No. 18, s. 1, Apl. 4, '31.
From depot to city property east of Jones' falls.

104. The Baltimore and Ohio Railroad Company are hereby authorized to introduce, construct and lay down a single track of railroad or railway, of stone or iron, or of both, from the depot on Pratt street, and thence along the centre of Pratt street to President street to the property of the city

[1] This ordinance recites that the president and directors of the Baltimore and Ohio Railroad Company, have, by a communication dated February 2d, and a resolution of February 7th, 1829, requested permission of this corporation to introduce the main stem of the said road within the limits of the city, and the said president and directors having also furnished a copy of the report of the board of engineers of said company to the president and directors, dated January 31st, 1829, in which the route of the said road is laid down from the first stone to the Belair road.

1827, c. 209, enacted that it shall and may be lawful for the president and directors of the said company to begin the said railroad at any point within the said city of Baltimore, which they may think proper, and to make and extend the said road from such point to the outer limits of the said city; and that the same powers, rights and privileges shall be and are hereby granted to the aforesaid company, within the limits of the city of Baltimore, in relation to, and in connection with, the said railroad within the said city, as are granted to them in relation to, and in connection with, the said railroad in any other part of the State; and the said company shall, within the said city, be subject to the same obligations that are imposed on them in other parts of the State, by the original act to which this is a supplement, (1826, c. 123;) provided, always, that the said road to be constructed within the said city, shall be so constructed and made as not to interfere with the free use and travelling on said streets; and provided, also, that the said railroad shall not pass through any of the streets, lanes or alleys of said city, without the consent of the mayor and city council of Baltimore being first had and obtained.

on the east side of Jones' falls; provided, that said track or railway be completed before the first of October, eighteen hundred and thirty-two.[1]

105. The Baltimore and Ohio Railroad Company are hereby also authorized to introduce, construct and lay down a single track of railroad or railway, of stone or iron, or both, along the centre of Camden street, from the west of Light street to the centre of Paca street, or along any part of it which they may deem necessary; and to continue such track, if they shall find it convenient and practicable so to do, from the centre of Paca street westwardly along the centre of or across any street or streets, or other ground on or over which the mayor and city council may lawfully grant such permission, to either of the depots of the said company, near Pratt street. And the said company may also by similar tracks along the centre of Charles street, Howard street and Paca street, or any of them, connect the tracks on Pratt street and Camden street, at any one or more places as they may find it to be necessary.[2]

Ibid, s. 2. On Camden street.

Pratt and Camden streets connected.

106. The said Baltimore and Ohio Railroad Company are hereby further authorized to introduce, construct and lay down a single track of railroad or railway, of stone or iron, or both, from the intersection of Pratt and Green streets, along the centre of Green street to Franklin street, thence along Franklin street to Eutaw street, thence southwardly along Eutaw to Camden street.

Ibid, s. 3. On Green to Franklin street, &c.

[1] By ordinance No. 57, June 11th, 1847, the Baltimore and Ohio Railroad Company were released from the obligation in the above section, to continue the use of stone in the repairs or reconstruction of the company's tracks within the city—and permission was given to use timber in the repairs or reconstruction of said tracks; provided, that the said tracks be graded according to resolution No. 122, approved April 22d, 1846, entitled a "Resolution relative to the railroad tracks within the city."

[2] No. 6, April 3d, 1850, repealed so much of the second section of the ordinance as authorized a track in Camden street; provided, however, that should a majority of the property owners on said street desire a track, the same to be constructed by the said Baltimore and Ohio Railroad Company.

For other streets than above mentioned, see 1831, ord. No. 34; 1832, res. No. 33; 1832, ord. No. 41, ord. No. 42; 1833, ord. No. 26; 1836, ord. No. 42; 1837, ord. No. 36, No. 41; 1838, ord. No. 1, No. 7; 1843, ord. No. 9; 1845, ord. No. 21, No. 37.

Ibid, s. 4. The company not complying.

107. Should the said Baltimore and Ohio Railroad Company fail to construct the track down Pratt street to the city property, at the time specified in section 104, then all the rights and privileges granted by this ordinance to the Baltimore and Ohio Railroad Company shall cease and be of no avail.

Ibid, s. 5. On Howard and Liberty to Baltimore street.

108. The Baltimore and Ohio Railroad Company are hereby authorized to construct and lay down a single track of railway of iron or stone, or both, commencing with the same at the intersection of Pratt and Howard streets, north on Howard street to Liberty street, and along on Liberty street to the centre of Baltimore street, and east along the centre of Baltimore street to Exeter street, and by said street to the city property on the east of Jones' falls; or the railroad may, at their option, commence a track of railway at the intersection of Eutaw and Baltimore streets, thence down the centre of Baltimore street to Exeter, and by said street to the city property on the east of Jones' falls; provided, that whenever the said company shall commence the said track, either from Pratt or Eutaw street, they shall complete the same throughout its whole extent, as described in this section, within three years from said commencement.

On Baltimore street to city property east Jones' falls.

Proviso.

Track completed.

Ibid, s. 6. On High, Hillen and Exeter streets.

109. The Baltimore and Ohio Railroad Company are hereby authorized to construct and lay down a single track of railway, of iron or stone, or of both, commencing at the intersection of Baltimore and High streets, thence along the centre of High street to the centre of Hillen street, thence to the centre of Exeter street, and down the centre of said street till it unites with the railway at the intersection of Baltimore and Exeter streets.

Ibid, s. 7 Turn-outs.

110. The Baltimore and Ohio Railroad Company shall construct as many turn-outs at the intersections of such streets, and also along the line of the railway hereby authorized, as this corporation may at any time require or authorize.

111. All and every car, wagon or other vehicle, which may pass on any of the railways authorized to be constructed by this ordinance, shall be drawn by animal power, and not drawn or propelled by steam; and shall be at a rate not exceeding three miles per hour, for wagons or other vehicles of burden; and for passenger cars, at such rate as may be approved of from time to time by the mayor and city council, under a penalty of five dollars for each offence, to be sued for and recovered as other fines and forfeitures are recovered. Ibid, s. 8. Cars drawn by animal power. Speed regulated Penalty.

112. The rate at which passenger cars may pass on any track or railways, shall not, until otherwise permitted, exceed six miles per hour, under the penalty imposed by the preceding section. Ibid, s. 9. Passenges cars speed.

113. If at any time after the construction of the aforesaid railways by the president and directors of the Baltimore and Ohio Railroad Company, it shall appear to the mayor and city council of Baltimore, that the said railways, or any part thereof, shall constitute an obstruction or impediment to the ordinary use of any street or streets, of which the said mayor and city council shall be the sole judges, the directors aforesaid shall, on the requisition of the mayor, either forthwith provide a remedy for the same satisfactory to the said mayor and city council; or if they fail to find such remedy, they shall, within one month after receiving such requisition, proceed to remove such obstruction or impediment, and to replace the street or streets in the same condition in which they were before the railway was laid down; and should the said president and directors decline or neglect to obey the requisition of the mayor, the mayor, after having given one month's notice, shall cause the obstructions or impediments to be removed, and the original condition of the street or streets restored at the expense of the said president and directors. Ibid, s. 10. Rails and obstructions to be removed. Notice.

114. The right to connect tracks of railways within the city with the main stem of the Baltimore and Ohio railroad, or on any of its branches, as may be deemed expedient, be and the same is hereby reserved to and by the mayor and city coun- Ibid, s. 11. To construct railways within city reserved.

cil of Baltimore; and that this corporation shall also have the right of charging and collecting a toll upon all cars, wagons and vehicles, which may pass upon any track or tracks so constructed.

Collecting toll.

Ibid, s. 12.

Railway to be kept in repair.

115. The right to pass and enforce all such ordinances as may be necessary for the purpose of having all and every track or tracks of railway hereafter to be made within the city by the Baltimore and Ohio Railroad Company, maintained and kept in good order and repair, at the cost and charge of the said company, is hereby reserved to the mayor and city council of Baltimore.[1]

No. 34, Ap'l 25, '31.

To lay rails in certain streets.

116. The president and directors of the Baltimore and Ohio Railroad Company are hereby authorized to introduce, construct and lay down a single track of railroad or railway, of stone or iron, or wood, or of all or either of them, from the railroad or railway of the Baltimore and Ohio Railroad Company, at the intersection of Pratt and Cove streets, or at the intersection of Cove and Portland streets; thence northerly along the centre of Cove street to Saratoga street; thence eastwardly along the centre of Saratoga street to Chatsworth street; thence northerly along the centre of Chatsworth street to its intersection with George and Biddle streets; thence easterly along the centre of Biddle street to the property of the city known by the name of the old Almshouse lot; and with the consent of the Baltimore and Susquehanna Railroad Company first had and obtained, to unite the same with the Baltimore and Susquehanna railroad.

Ibid, s. 2.

How governed.

117. All limitations, reservations, stipulations, restrictions and regulations contained in the ordinance No. 18, Apl. 4, 1831, and applicable to any of the permissions granted thereby, or to any of the railways mentioned therein, or to the use of or travel upon the same, shall extend and apply to the

[1] By Res. No. 231, May 9, '67, the city commissioner is directed to notify the proper officers of the Baltimore and Ohio Railroad Company to have the track formed by stone on S. Paca street, between Baltimore and Pratt streets, removed in accordance with this ordinance.

permission given and the railway authorized by this ordinance, and to the use of and travel on the same, as fully as if they were here at large repeated and set out, except that the railway hereby authorized may be of wood, and that there shall be no time limited for the completion thereof.[1]

No. 41, Apl. 7, '37.
Baltimore and Ohio Railroad Company authorized to construct railway on Aliceanna and other streets.

118. The Baltimore and Ohio Railroad Company are hereby authorized to introduce, construct and lay down a single track of railroad, of wood and iron, from the intersection of President and Aliceanna streets, eastwardly along Aliceanna street to Canal street, thence southwardly along Canal street to Lancaster street, thence westwardly along Lancaster street to Exeter street, thence northwardly along Exeter street to unite with the said rail track in Aliceanna street.

Ibid, s. 2.
How governed.

119. Section 10 of ordinance No. 18, of 1831, (sec. 113 *ante*,) shall apply in every respect to the tracks of railroad hereby authorized to be constructed and laid down.

No. 21, Apl. 19, '45.
Baltimore and Ohio Railroad Company permitted to construct a branch of their road to the south side of the basin.

120. The Baltimore and Ohio Railroad Company are hereby authorized to construct and lay down and keep in repair a branch of their road, with one or two tracks, to some point on navigable water on the south side of the basin, within the limits of the city, between Hughes' quay and Fort McHenry; and in the location and construction of the same the said company shall be permitted to adopt such grades and curves as may enable them advantageously to use locomotive engines thereon; provided, that no grade of any street, already graded and paved, shall be altered or interfered with, except under the direction of the city commissioner, so far as may be necessary in the laying of the rails

Proviso.

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[1] By Res. No. 33, Mar. 31, '32, it was provided, that the track of railway authorized to be laid down and constructed, by virtue of the provisions of the original ordinance, to which this is a further supplement, (Ord. No. 18, Apl. 4, '31,) might be made of wood from Stiles street to the city property, on the east side of Jones' falls, and the time limited by the said original ordinance for completing the said track to the said property, was extended to three months after President street should be graded from Stiles street to the said property.

on the same; and provided, that the whole be under such salutary regulations as the city authorities may, from time to time, prescribe; and provided also, that the moving power on said branch road does not exceed four miles per hour.

Ibid, s. 2. What articles to be transported on said road.

Exempt from wharfage.

121. The articles to be transported upon said branch road, shall be confined to coal, iron, iron ore, stone, plaster, lime, and other earths and minerals; and that all of the above described articles shall be exempted from wharfage, dockage, or any other charges on the part of the city, or on the part of the Baltimore and Ohio Railroad Company, except the port tonnage established by the law of Congress, for the term of twenty years, and for so much longer term as the mayor and city council shall, at any time hereafter, deem it proper to grant.

Ibid, s. 3. Company may construct wharves.

122. The said company shall have power to construct, at the termination of said branch of their road on tide water, such wharves as they may require for their own use; provided, the wharf property used belonging to the city does not exceed in extent two hundred front feet; and the said company shall have power to extend their said railroad upon said wharves out to such depth of water as may be required; provided, it shall not be extended to any point beyond the port warden's line, as now established.

Ibid, s. 4. Company authorized to construct a branch road from Pratt street to any part of Fell's Point.

123. The Baltimore and Ohio Railroad Company are hereby authorized to construct and lay down, and keep in repair a branch of their road, with one track, from Pratt street down Concord street, or from Pratt street down the Falls avenue, or any other more practicable route, to the city block, or to the present Baltimore and Ohio Railroad Company's depot, by crossing the falls at or between Aliceanna and Pratt streets, and from thence, with the privilege of continuing east along Aliceanna street and Wilk street to Canton, or to any private wharf or wharves on Fell's Point, by the consent of the proprietors thereof.

Ibid, s. 5. What articles exempted from wharfage.

124. The following articles that may be transported upon the said branch road, granted by the preceding section,

on any road now laid down in that direction, when used by the Baltimore and Ohio Railroad Company, viz: coal, iron, iron ore, stone, plaster, lime and other earths, and all other minerals, shall be exempted from wharfage, dockage, or any other charges on part of the city, except the port tonnage established by the law of Congress, and on the part of the Baltimore and Ohio Railroad Company, except the charges paid to other companies, for the term of twenty years, and for so much longer term as the mayor and city council shall, at any time thereafter, deem it proper to grant. The Baltimore and Ohio Railroad Company are authorized to transport over the tracks herein named all articles of trade and merchandise whatsoever, and such articles only as are herein specified, are allowed to be shipped free from charge, as specified in this ordinance.

No. 37, May 2, '45.
Articles of transportation, &c.

125. All the powers and privileges granted by sections 120 and 121, shall be extended to the Baltimore and Ohio Railroad Company on any track now laid down, or on any branch road that may be hereafter laid down by this act, or on any road now laid down in that direction, when used by the Baltimore and Ohio Railroad Company, east of Mount Clare depot; subject, however, to the same salutary regulations by the city authorities, as prescribed by section 120; provided, that the company does not occupy any greater space of the city wharf at the city block, than may be equal in width or front, to the lots now occupied by the company under deed from the city, on Lancaster street, free of wharfage, on the articles specified by the fifth section of this act; provided, also, that the steam power over the railway tracks down Pratt street to the city block be used between the hours of nine at night and five in the morning, from the first of November till the first of April, and between the hours of nine at night and four in the morning, from the first of April to the first of November, and a man shall be required to walk in advance of the steam engine in passing through the streets on all occasions.

No. 21, s. 6, '45.
Privileges granted to said company, subject to salutary regulations.
Proviso.
Steam Engine.

Ibid, s. 7. Damages to property, life, &c.

126. The Baltimore and Ohio Railroad Company shall be held responsible for all damages done to property in the laying down of the rails contemplated to be laid down by virtue of this ordinance; and they shall also be responsible for all damages done to the life or limbs or property of others, caused by the passage of their locomotive or locomotives through the streets of the city, when resulting from the negligence of their agents.

Ibid, s. 8. Locomotive engines. Fuel.

127. Upon all occasions the locomotive engines, in passing through the city, shall use coal or coke for fuel for steam.

No. 38, s. 1, May 18, '60. B. & O. R. R. authorized to lay single track on certain streets.

128. The Baltimore and Ohio Railroad Company are hereby authorized and empowered to lay down and keep in repair a single track of railway from the Harford run along the bed of Aliceanna street to Caroline street; thence along the bed of Caroline street to Thames street; thence westwardly to Philpot street; thence to Point street; and from the intersection of Caroline street and Thames street eastwardly along Thamas street to Fell street, thence to the water, and from the intersection of Fell and Wolf streets, along the bed of Wolf street to Canton avenue; provided the consent of a majority of property holders along the lines of said streets shall have been first obtained.

Proviso.

Ibid, s. 2. Street grades not to be altered.

129. In the laying down of the tracks provided for in the above section, no grade of any street, already graded and paved, shall be altered or interfered with, except under the direction of the city commissioner, so far as may be necessary in the laying of the rails of the same, and that the whole be under such salutary regulations as the city authorities may from time to time prescribe.

No. 72, May 18, '64. Authorized to change curves at President and Howard streets.

130. The Baltimore and Ohio Railroad Company are hereby authorized to change the location of the curves at President street and Howard street, in the track connecting the station of the Philadelphia, Wilmington and Baltimore railroad with the Camden station of the Baltimore and Ohio railroad, so as to enlarge the radii of curviture thereof, by laying down a continuous curve of the largest radii which can be

obtained, without encroaching on the building line of other property than that which may be owned by the company; provided, that in crossing the foot-ways in front of or on either side of the company's property, the inside rail of the track shall not be laid nearer than ten feet to the building line of other than the company's property. Proviso.

131. The consent of the mayor and city council is hereby given to the Baltimore and Ohio Railroad Company, to lay the road which they are authorized to construct under an act of the general assembly, passed at January session, 1866, c. 154, along the length of South Paca street extended; commencing for the same at the end of the tangent at Clare street, and ending at the boundary of the city at Gwynn's falls; said railway track to be laid under the supervision and direction of the city commissioner, in such manner as not to obstruct the drainage of adjacent land, or interfere with the proper grade of South Paca street when extended. No. 6, Mar. 20, '67. Railroad track on S. Paca st.

132. The consent given by this ordinance shall not be construed to authorize or permit the Baltimore and Ohio Railroad Company to occupy more than 24 feet in width of the bed of said street, excepting so much of said street as will be required for placing a bridge over Gwynn's falls. Ibid, s. 2. Not to occupy more than 24 feet width.

133. The president and directors of the Baltimore and Ohio Railroad Company are hereby authorized and permitted to connect, continue, construct and lay down a railroad track on South Charles street from Camden street to Conway street, and from Charles street down Conway street to Light street; provided said railroad track shall be removed when required by the mayor and city council of Baltimore, upon giving six months' notice of said intention.[1] No. 22, Apl. 10, '68. Railroad track on South Charles street. Proviso.

[1] By act of 1868, c. 284, the Baltimore and Ohio Railroad Company are authorized, with the consent of the mayor and city council of Baltimore first had and obtained, to lay a single railroad track connecting with the track at the corner of Charles and Camden streets, in the city of Baltimore, and thence down Charles street to Conway street, and thence along Conway street to Light street; said

BALTIMORE AND POTOMAC RAILROAD COMPANY.

No. 26, s. 1, May 29, '69. Authority to construct railway in city.

134. The Baltimore and Potomac Railroad Company is hereby authorized in the construction within the limits of the city of Baltimore of the railroad, which under its charter it is authorized to make and maintain, to locate and construct the same along or across such parts of such streets of said city of Baltimore as are hereinafter named, that is to say: from some point on the line of the Northern Central railway as newly located, and running thence in a westerly direction across Cathedral street to a point on North avenue east of the Northern Central railway, as first located, and thence, under the centre of North avenue, to a point between McMechen and John streets, and thence by a curved line through and under the intervening property, to the intersection of John and Wilson streets; thence, under John street, at said intersection and along the centre of Wilson street, from the northeast side of John street to the termination of said Wilson street, at Pennsylvania avenue; across Pennsylvania avenue, at its intersection with Wilson street; across Fremont street, at or near its intersection with Winchester street, along Winchester street, as at present located, from Fremont street to Gilmor street, and also along any extension of Winchester street, westwardly of Gilmor street, in case Winchester street should be extended westwardly of Gilmor street, on a line with said Winchester street, as it is now located, east of Gilmor street; and also across Gilmor, Mount, Fulton, Monroe, Payson and Pulaski streets, and all the intervening alleys running parallel therewith at some point on said streets and alleys between Cook street on the north and Townsend street on the south; and also across Winchester, Tenant and Mosher

In what streets.

track to be subject as to its location, construction and use, to the same authority and control as other tracks or branches of said railroad now laid on the streets of said city; provided, that all cars bringing tobacco to the city of Baltimore on any line of railroad, connecting through any streets of said city with the track of the Baltimore and Ohio railroad, shall be allowed the free use of the track authorized by this act.

streets, and all intervening alleys running parallel therewith, at some point on said streets, between Fulton street and the western boundary line of the city; and the said company is also authorized to construct its road under North avenue, from a point between John street and McMechen, and thence under the intervening property in Baltimore county around the Mount Royal reservoir, to a point on the Northern Central railway, as newly located north of North avenue in Baltimore county, so as to make a northern connection with said Northern Central railway; said last mentioned connection to be made through a continuous and covered tunnel from North avenue northwesterly to the said Northern Central railway.

135. The said Baltimore and Potomac Railroad Company, in constructing the railroad along or across the said North avenue, John street, Wilson street, Pennsylvania avenue, Fremont street and Winchester street, from Fremont street to Fulton street, and also across Gilmor, Mount and Fulton streets, and all intervening alleys, shall construct the same in a tunnel to be carried under the said streets; and shall moreover, in constructing the said railroad along or across any of the other streets or alleys mentioned in the preceding section, construct the same in a tunnel; provided the grade of said streets and alleys shall be established high enough in reference to the grade of said railroad as to enable the said railroad to be carried under them; and the said Baltimore and Potomac Railroad Company, in constructing its road through the ground lying between North avenue and John street, and the ground lying between Gilmor and Monroe streets, shall so construct, enclose and surround the same as that the said railroad, and all engines or cars passing over the same shall be entirely concealed from the view of persons using the streets or avenues of the city and binding on said property or adjacent thereto; and the said railroad company shall construct its railroad through said tunnel with a double track, when said road is finished and in running order.

Ibid, s. 2. Tunnels. Grades. Proviso.

Ibid, s. 3.
Construction of tunnels.

136. The tunnel or tunnels mentioned and provided for in the preceding section, shall be so constructed and arched as to leave uninjured and secure the streets under which said tunnels shall be made; and if in constructing the said railroad across or under any of the streets or alleys mentioned in this ordinance it shall become necessary to take up any pavement on said streets, or excavate the same, then and in that event the said Baltimore and Potomac Railroad Company shall restore the surface of said streets to the same condition in which they were before being interfered with by said company, which streets shall be so restored to their former condition by the said Baltimore and Potomac Railroad Company within such period of time and in such manner as shall be prescribed by the mayor and city commissioner, and the said Baltimore and Potomac Railroad Company in constructing the said railroad under or across any of the aforesaid streets, shall take all such precautions to prevent accidents and injuries to persons or vehicles using said streets, as shall be prescribed by the city commissioner, and for every violation of any of the provisions of this section the said company shall be subject to a fine of not less than ten nor more than fifty dollars for each day that the said company shall fail to comply with the regulations of the said mayor and city commissioner; to be recovered for the use of the mayor and city council of Baltimore, as other fines and penalties for the violation of ordinances of the city are recovered.

Penalty.

Ibid, s. 4.
Conditions.

137. When the railroad, which the said Baltimore and Potomac Railroad Company is hereby authorized to construct and maintain through the streets of the city, shall have been constructed, it shall be the duty of the said Baltimore and Potomac Railroad Company, and they are hereby required to afford facility to the Western Maryland Railroad Company and the Union Railroad Company for the passage of passengers and freight over that portion of the Baltimore and Potomac railroad hereby authorized to be made within the city

Western Maryland railroad.
Union railroad.

limits, under such rules and regulations as shall be determined by the Baltimore and Potomac Railroad Company; provided, that the amount to be paid within any one year by the said Western Maryland and Union Railroad Companies, respectively, to the said Baltimore and Potomac Railroad Company, for the said passage of passengers and freight over said portion of said railroad, shall not exceed such proportion of the interest on the original cost of said portion of said railroad, and of the cost of maintenance of the same, as the amount of the aggregate of business carried over said portion of said Baltimore and Potomac railroad for each of said companies respectively, bears to the whole amount of business carried over said portion of said railroad for the said three companies; provided, that the said work shall be subject to the inspection of the city commissioner, who shall have the power of compelling the said company to do its work so as to protect the interests of the city. Provisos.

138. The said Baltimore and Potomac Railroad Company shall establish at least one general depot for passengers and freight, and one or more way stations between Pennsylvania avenue and the point where said railroad shall cross the Baltimore and Frederick turnpike. Ibid, s. 5. Depot.

139. The said Baltimore and Potomac Railroad Company, in constructing its road across the Baltimore and Frederick-town turnpike, the old Frederick road or turnpike, and Lafayette avenue as extended into Baltimore county, and other avenues adjacent to and leading into the city of Baltimore, shall carry the said railroad by tunnel under said turnpike and avenues, or by bridges over the same, and in such manner as not to interfere with the travel over the same; provided the corporation or persons having control of the said turnpikes and avenues shall so arrange and adopt the grades of the same as to enable said railroad to be carried over or under said turnpikes and avenues, and whenever it shall be necessary to alter the grade of said turnpike or of any of Ibid, s. 6. Construction of road across turnpikes and avenues. Proviso.

said avenues which at the time of said construction of said railroad shall have been actually graded; the expense of said alteration shall be borne by said Baltimore and Potomac Railroad Company.

Ibid, s. 7. Ventilation to tunnel.

140. No opening or holes for the pnrpose of ventilation, shall be made in any of the streets or avenues of said city under which said tunnel shall be made, but said Baltimore and Potomac Railroad Company shall, if any ventilation of such tunnel, additional to that afforded by the mouths is required, supply the same by means of chimneys, shafts or flues, erected at proper points, on property belonging to said company, and of such height and construction as shall ventilate said tunnel, without annoyance to persons or property in proximity thereto.

Ibid, s. 8. Railroad along streets, &c.

141. The said Baltimore and Potomac Railroad Company in constructing its said railroad along or across any of the streets mentioned in section 134, under which there are any sewers, shall construct the same, in reference to such sewers, in such manner as shall be directed by the city commissioner, and so that the sewerage through said streets shall not be injured or disturbed, and all the expense of the alteration of any existing sewers along any of said streets which the city commissioner shall determine to be necessary in consequence of the construction of said railroad, shall be borne by said Baltimore and Potomac Railroad Company, and if, in the judgment of the city commissioner, the construction of said railroad along or across any of said streets shall render necessary the making of any new sewers which would not otherwise have been required, then all such sewers shall be made under the direction of the city commissioner, and the expense thereof shall be borne by said Baltimore and Potomac Railroad Company.

Ibid, s. 9. How governed.

142. The exercise of all the powers of locating, constructing, maintaining and using said railroad track through the city of Baltimore conferred by this ordinance, or that may be

conferred by any amendment or supplement thereto, or by any future ordinance, shall be and remain at all times and in all respects, so far as the safe, free and unobstructed enjoyment and use of the streets, ways, avenues and alleys of the city of Baltimore are concerned, and subject to and under the control of the mayor and city council of Baltimore.

143. The said Baltimore and Potomac Railroad Company shall complete the tunnel entirely within two years from the time after it is commenced in the city, otherwise this ordinance to be void and of no effect; provided, that the work is not interfered with in the meantime by proceedings in the courts against said railroad company. Ibid, s. 10. Time limited.

144. In the construction of said tunnel under the bed of the streets herein named, ample provision shall be furnished to the water and gas mains; and in the event of its being necessary to change or disturb them, the same must meet with the concurrence of the water board or city commissioner, and all cost of said change must be borne by the Baltimore and Potomac Railroad Company. Ibid, s. 11. Water and gas mains.

145. The said company, in giving signals within the limits of the city shall give such signals, unless in cases of especial danger, by the ringing of bells instead of blowing steam whistles. Ibid, s. 12. Signals.

146. The principal offices of said Baltimore and Potomac Railroad Company shall always be located within the corporate limits of the city, and the president of said company shall be a resident citizen of the State of Maryland. Ibid, s. 13. Offices. President.

NORTHERN CENTRAL RAILWAY.[1]

147. The Baltimore and Susquehanna Railroad Company are hereby authorized to construct and lay down a track of railroad or railway, of stone or iron, or of both, from the main No. 33, s. 1, Apl. 25, '31. Track of railway agreeably to plat in register's office.

[1] By 1854, c. 250, the Baltimore and Susquehanna Railroad Company, the York and Maryland Line Railroad Company, the York and Cumberland Railroad Company and the Susquehanna Railroad Company were consolidated by the name of the Northern Central Railway Company, subject to all laws and ordinances, contracts and liabilities applicable or relating to said companies, &c.

stem of said road, from or near a point marked A, on a plat filed by said company in the register's office, along or near the route marked by a red line, to or near a point marked B, on the old Almshouse lot west of Eutaw street, and also, from or near said point A, along or near a red line marked A, C, D, to or near a point marked D, on the city property on the east side of Jones' falls; the said last mentioned route to be continued along the west side of Harford run, after the said branch shall intersect Canal street.[1] And the mayor

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[1] By ordinance No. 23, Mar. 30, '53, the Baltimore and Susquehanna Railroad Company are directed to remove that portion of their road between Monument and Wilk streets, from the west side of Central avenue to the middle of said avenue, over the bed of Harford run, and so to elevate said road as to make it the highest part of the avenue; and also to repair all that part of the road east of Jones' falls, so as not to prevent or interfere with travel on the streets through which it passes. It repeals the portion of above section relating to the railway track on the west side of Harford run.

1849, c. 532, enacted: that the southern terminus of the Baltimore and Susquehanna railroad shall be at the depot, now erected on Calvert street, in the city of Baltimore, including the said depot, and so much of the lot on which it stands as may be necessary for the convenient use of said depot, and that the president and directors of the Baltimore and Susquehanna Railroad Company, shall be and they are hereby invested with all the rights and powers necessary for the construction, repair and use of a line of railroad, in and from said Calvert street depot, along their present line of railroad tracks on the bed of North street, and through Bolton depot to the city limits, as fully in every respect as said company now possesses the right and power to construct, repair and use its railroad beyond the limits of the city of Baltimore..

2. That the president and directors of said company shall be and they are hereby authorized to construct, repair and use a second track of railroad, parallel to their present track, from said Calvert street depot to the city limits, and if in their judgment necessary, to alter the location of their present track; provided, that before said company shall be authorized to construct a second track, it shall widen the streets through which its road passes, in the manner hereinafter provided, for which purposes the said company is hereby authorized to widen the streets through which said tracks are or may be located to the further width of twenty feet, and may acquire the necessary ground and materials by gift or purchase, or by condemnation, in the manner prescribed and authorized by the original act, to which this is a further supplement; and for the purposes of such condemnation, the sheriff and justices of the peace of Baltimore city and Baltimore County Court, are hereby invested respectively with all the powers, authority and duties within the limits of the city of Baltimore, as the sheriff and justices of the peace of Baltimore county and Baltimore County Court are respectively charged and invested with by the said original act, beyond the limits of

and city council do hereby agree to lay off at the old Almshouse and the city property on the east side of Jones falls, a lot of ground of one acre at each place, to be used by the company as a depot for the erection of buildings necessary for the operation of the company; provided, however, that if the said company should at any time hereafter cease to use the said depots, or either of them, for twelve months, that then, and in such case, they shall revert back to the mayor and city council of Baltimore, in as full and absolute a manner as if this ordinance had never been passed; provided, however, that the said company may remove any and all buildings or improvements erected on said depot or depots.

Mayor and city council to lay off ground for depots.

To revert to the city.

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the city of Baltimore; provided, that nothing in this act contained shall deprive the mayor and city council of Baltimore of the right and power to fix and prescribe the rate of speed at which the said railroad company may run their cars and locomotives within the city limits; and provided, that the legislature reserves to itself the right to repeal this act whenever, in its discretion, it may deem it expedient.

3. The opening of certain proposed streets located upon the map of Baltimore city, through the Bolton depot of said company, would seriously injure the operations of said company, and would be of no benefit to any considerable portion of the citizens; therefore, be it enacted that the following streets, or such parts of them as run through the said Bolton depot lot, shall be and they are hereby forever closed, namely: all that part of Hoffman street, lying between Foster alley and Cathedral street, all that part of John street, lying between Dolphin and Cathedral streets, and all that part of west Oliver street, lying between Dolphin and Cathedral streets, and no other street, lane or alley shall be opened through the said lot, without the assent of the president and directors of said company; provided, the said company, on being so notified and required by the mayor and city council of Baltimore, or by their duly authorized agents, shall open Dolphin street of a width of sixty feet in a straight line to Cathedral street, and shall give, for the purposes of a street, a strip of ground along the east side of Foster alley, forty feet in depth, and extending from Dolphin to Preston streets, thereby making Foster alley, now twenty feet wide, a sixty feet street; and further, shall open Preston street, from Foster alley to Cathedral street, and shall deed to the city of Baltimore the ground so to be given for the beds of streets.

4. That the president and directors of the said company be and they are hereby authorized to refuse the transport, the cars, goods and merchandise of any individuals or company, after he, they or it shall have violated the published rules and regulations of said company, until full satisfaction shall be made for such violation; and that any individuals or company transporting upon said railroad without the knowledge of said company, any gunpowder or friction matches,

Ibid. s. 2. Railways to be removed when required.

148. Nothing herein contained shall be so construed as to prevent the mayor and city council of Baltimore, at any time hereafter, to cause the whole or any part of the said branches authorized by this ordinance, which may be laid on the bed of any street, lane or alley, to be taken up and removed at the expense of said Baltimore and Susquehanna Railroad Company, whenever so required by the mayor and city council of Baltimore.

Ibid, s. 3. Turn-outs.

149. The Baltimore and Susquehanna Railroad Company shall construct as many turn-outs at the intersection of such streets, and also along the line of the railway hereby author-

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shall be subject to a fine of one hundred dollars for each offence, to be recovered in the name of the State, before any justice of the peace as other fines—one-half for the use of the informer, and one-half for the use of the State; provided, a copy of this section be published with the rules and regulations of the company.

5. That the president and directors of said company may allow individuals or companies to use their own cars in the transportation of goods or merchandise on its road, at rates of toll to be fixed by said company; provided, and it is hereby declared that said company shall not be liable for any damage done through accident to said cars, or any loading therein, unless the same was occasioned by the wilful misconduct or gross negligence of said company, or its agents; provided, that all the expenses incurred by the city authorities, by the proceeding heretofore had under the act of 1838, chapter 226, and the ordinances of the city of Baltimore regulating the manner of opening the streets, and so forth, for opening the streets, or any of them, mentioned in this section, through Bolton dopot lot, shall be paid by the Baltimore and Susquehanna Railroad Company.

6. That the president and directors of said company be and they are hereby invested with all the rights, powers and privileges granted under the original act of incorporation, and which may be necessary to carry into effect the provisions of this act.

7. That the president and directors of said company shall be and they are hereby authorized to run any of the locomotives or cars belonging to said company, on any railroad connecting with that of said company, or with the York and Maryland line railroad, whenever in their judgment the interest of the Baltimore and Susquehanna Railroad Company will be promoted by such arrangements.

8. That all acts of assembly inconsistent with the provisions of this act, in so far as they are so inconsistent, be and the same are hereby repealed.

9. That this act shall be of no force and effect until a majority in value of the stockholders of said company, including the State of Maryland, whose assent is hereby given, in general meeting assembled shall have assented to the same, and shall have deposited with the treasurer of Maryland the written evidence of such assent.

ized, as the mayor and city council of Baltimore may at any time require or authorize.

Ibid, s. 4. Cars drawn by animal power.

150. All and every car, wagon, or other vehicle, which may pass on any of the railways authorized to be constructed by this ordinance, shall be drawn by animal power, and not drawn or propelled by steam; and shall be at a rate not exceeding three miles per hour for wagons of burden, and for passenger cars at such rate as may be approved from time to time by the mayor and city council, under a penalty of five dollars for each offence, to be sued for and recovered as other fines and forfeitures are recovered; and until the rate at which passenger cars may travel shall be regulated, they shall be allowed to travel at a rate not exceeding six miles per hour. Speed.

Ibid, s. 5. Railways kept in repair.

151. The right to pass and enforce all such ordinances as may be necessary for the purpose of having all and every track or tracks of railway hereafter to be made within the city by the Baltimore and Susquehanna Railroad Company, maintained and kept in good order and repaired at the cost and charge of the said company, is hereby reserved to the mayor and city council of Baltimore.

Ibid, s. 6. Right reserved to come in with the main stem.

152. The right to connect, by tracks of railway within the city, with the main stem of the Baltimore and Susquehanna railroad, or its branches, as may be deemed expedient, is hereby reserved to and by the mayor and city council of Baltimore, and the mayor and city council of Baltimore shall also have the right of charging and collecting a toll upon all cars, wagons and vehicles, which may pass upon any track or tracks so constructed.

No. 31, s. 1, April 10, '37. Extending railroad along streets.

153. The president and directors of the Baltimore and Susquehanna Railroad Company, are hereby authorized and empowered to extend their railroad and branches therefrom through and along any of the streets of the city which they may select, and which may be approved by the mayor, for

the purpose of forming rail communications from the main stem of said road to the following points, to wit:—to the track now laid in Howard street at its intersection with Franklin street, to the city block, passing through old town, and to any depot which may be established on Calvert street, or between the same and Jones' falls north of Saratoga street.

Ibid, s. 2. Time limited for laying rails.

154. No railroad track shall be laid down in any street, under the provisions of this ordinance, until the said railroad shall be completed to the borough of York; provided, however, that this section shall not be so construed as to prohibit the railroad company from selecting the route through the different streets, as provided for in the first section, and to purchase such depots as they may deem proper and expedient; and furthermore, when the rails are located in any of the streets of the city, they must be done so as to meet the approbation of the city commissioner.

Ibid, s. 3. Mayor authorized to remove.

155. The power and authority are hereby reserved to the mayor and city council of Baltimore to require the said Baltimore and Susquehanna Railroad Company, at any time hereafter, to take up and remove any track of railway which may be laid down in any street under the provisions of this ordinance, if the same shall be found injurious to the city; and if the said company shall not remove any such track within six months after receiving notice to that effect, the mayor and city council shall be authorized to have the same removed at the expense of said company.

Notice.

No. 36, April 19, '39. Location of railroad on Wilk and Exeter streets.

156. The president and directors of the Baltimore and Susquehanna Railroad Company are hereby authorized, with the approbation of the mayor, to locate the Baltimore and Susquehanna railroad, so as to run from its intersection with Canal and Wilk streets, westwardly along the centre of Wilk street to Exeter, thence along the centre of Exeter street southerly to the city property, on the city block; provided, the construction of the said road be done under the supervision of the city commissioner.

Proviso.

157. Permission is hereby given the Baltimore and Susquehanna Rail Road Company to extend their road to tide-water, as authorized under the act of assembly of 1853, c. 191.[1] No. 55, s. 1, June 20, '54. Railroad extended to tide-water.

158. The Baltimore and Susquehanna Railroad Company are hereby authorized to construct and lay down and keep in repair a branch of their road, either with one or two tracks, beginning at the Northern avenue, east of the present track, to some point on navigable water on the northwest branch of the Patapsco river, east of Jones' falls; and in the location and construction of the same, the said company shall be permitted, under the direction and with the consent of the mayor and city commissioner, to adopt such grades and curves as may enable them advantageously to use locomotive engines thereon; provided, that no grade of any street already graded and paved shall be altered or interfered with, except under the direction of the mayor and city commissioner; and provided, that the whole may be under such salutary regulations as the city authorities may from time to time prescribe; pro- Ibid, s. 2. Where tracks may be laid.

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[1] Sec. 4 of this act provides: that the mayor and city council of Baltimore be authorized and empowered to construct branches, or to authorize individuals to do the same, from the tracks outside the city proposed by the act, through or along any street in said city that may be deemed necessary, subject to the same rules and regulations as are required for private switches on the main line of said road.

Held, that the act of 1853 and the assent of the mayor and city council, given in section 157 above, do not give the railroad company the right to locate its lateral road through the city over such route, and with such grade or grades as the company, in the exercise of its discretion, might deem expedient. The act of 1853, c. 191, did not design to take away from the municipal legislature the jurisdiction and control over its streets and highways given the city by its charter, with power to fix and determine their grades with a view to the public convenience. The power reserved by act of 1853, c. 191, to mayor and city council over the subject, is complete and unimpaired. The right to give or withhold their assent to the construction of the road necessarily involves the right of prescribing the terms and conditions upon which their assent is given. The provisions of above ordinance are valid and binding upon the company, as conditions upon which the assent of the city was granted. All the above sections must be construed together. It was proper for the mayor and city council to require the railroad to be made under the supervision of the mayor and city commissioner. *N. C. R. W. Co.* v. *Mayor, &c.*, 23 Md. 93.

Tunnels. vided further, that the branch road, as aforesaid, in its construction, shall be carried under the Northern avenue, Decker, Charles, St. Paul, North and Belvidere streets, and York avenue, and all avenues intervening between said Northern avenue and the streets as aforesaid, and by a tunnel commencing at the York avenue and running under Hoffman street; said tunnel terminating near the intersection of Ann and Hoffman streets, crossing Belair avenue on the level of the grade of said avenue, near Greenwood gardens, and crossing the Havre-de-Grace turnpike, near the intersection of Fayette and Luzerne streets, and then by the most practicable route to the eastern limits of the city, towards its terminus at tide-water, on the northwest branch of the Patapsco river, within the present corporate limits of the city of Baltimore.

Ibid, s. 3. Locomotives may be used. 159. The said Baltimore and Susquehanna Railroad Company are hereby authorized to use locomotive engines adapted to a slow speed, in said extension; provided, this ordinance shall not be so construed as to prevent the mayor and city council of Baltimore at any time regulating the speed of said engines through any or all the streets through which it may pass.

Ibid, s. 4. Connection with main stem 160. The right to connect by tracks of railway, within the city, with the main stem of the Baltimore and Susquehanna railroad, or any of its branches, as may be expedient, is hereby reserved to the mayor and city council of Baltimore.

Ibid, s. 5. Reservation to city. 161. The right to pass and enforce all such ordinances as may be necessary for the purpose of having all and every track or tracks of railway hereafter to be made in the city by the Baltimore and Susquehanna Railroad Company, maintained and kept in good order and repair, at the cost and charge of said company, is hereby reserved to the mayor and city council of Baltimore.

Ibid, s. 6. Grades to be established. 162. Before the Baltimore and Susquehanna Railroad Company shall proceed to lay all or any part of the road, on any of the streets authorized by this ordinance, the city commissioner shall establish the grades of all the streets through

which said road may pass, by the city surveyor and engineer of and at the cost of the said Baltimore and Susquehanna Railroad Company.

163. It is expressly understood that the laying of the track, as provided for in this ordinance, through any or all the streets above named, shall be under the supervision of the mayor and city commissioner. Ibid, s. 7. City to have supervision.

164. The terminus and all the improvements thereat of said branch road shall be on the northwest branch of the Patapsco river, at or near the Lazaretto, within the present corporate limits of the city of Baltimore. Ibid, s. 8. Terminus.

165. The said Baltimore and Susquehanna Railroad Company shall not enter into any arrangement with any individual or incorporated company for the transportation of tonnage or passengers to and from the line of their road, to any point on the seaboard, at a less rate per ton and per capita per mile than the rate established by said company for the transportation of the same to and from the city of Baltimore, except only by the permission of the mayor and city council of Baltimore. Ibid, s. 9. Rates of tonnage.

166. The said company shall have power to construct such wharves and coal shutes at the termination of said branch road, on the northwest branch of the Patapsco river as may be requisite to accommodate the business of the company; subject, however, to all ordinances now existing, or that may hereafter be passed, regulating the business of the harbor of the city of Baltimore. Ibid, s 10. Wharves and coal shutes.

167. The Baltimore and Susquehanna Railroad Company are hereby authorized to construct a track along the bed of Central avenue to the intersection of Aliceanna street, and along said street to its intersection with Caroline street, and along Caroline to its intersection with Thames street, and along Thames street to connect with the tracks of said company, as provided in this ordinance, by such street as may Ibid, s. 11. Track through Central avenue, &c.

be designated by the mayor and city council of Baltimore; provided, the track authorized to be put down on the bed of the streets, as aforesaid, shall be constructed under the supervision of the city commissioner, and subject to all ordinances regulating railroad tracks within the limits of this city, now existing or which may hereafter be passed, and to be removed at the discretion of the mayor and city council of Baltimore.

Ibid, s. 12. Conditions.

168. If the said Baltimore and Susquehanna Railroad Company shall refuse to comply with the provisions and conditions contained in section 164, then the permission given by said ordinance shall be null, void and of no effect.

Ibid, s. 13. Northern Central railway company to have same powers and rights.

169. Should the Baltimore and Susquehanna Railroad Company be consolidated with the York and Maryland Line Railroad Company, the York and Cumberland Railroad Company, and the Susquehanna Railroad Company, of the State of Pennsylvania, by the name of the Northern Central Railway Company, under the acts of the State of Maryland and Pennsylvania, authorizing the consolidtation of the same, then, and in that case, the said Northern Central Railway Company shall be entitled to all the privileges and subject to all the provisions and penalties of this ordinance.[1]

No. 51, s. 1, June 10, '57. Permission to lay down track on Belair av.

170. The Northern Central Railway Company are hereby authorized to lay down a single track of the ordinary structure used by the said company in their road, upon the bed of Belair avenue from the present track on Monument street to the intersection of said avenue with Eager street, and thence upon the line of the bed of Eager street to its intersection with the track of the said Northern Central Railway Company's road now being constructed and leading to tide-water at Canton.

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[1] By Res. No. 180, June 26, 1856, the Northern Central Railway Company were authorized to change the route of the railroad track, from Central avenue to Thames street, authorized by above ordinance, from the bed of Aliceanna and Caroline streets to the bed of Eastern avenue and Bond streets, to Thames, to Philpot, and to Fell streets.

171. The said company shall in the use of the said track be subject to the conditions and limitations, and shall observe all the regulations that are comprised and set forth in the first section of the ordinance entitled an ordinance to authorize the Baltimore and Susquehanna Railroad Company to use steam engines within the limits of the city of Baltimore, May 2, 1845, No. 38.[1] Ibid, s. 2. Conditions, &c.

172. The said Northern Central Railway Company shall not use within the limits of direct taxation, any portion of the track authorized to be laid by this ordinance for the passage of any engine or train of cars, excepting between the hours of nine o'clock at night and five in the morning; and should the said company violate the provisions of this ordinance, they shall be liable to a fine or penalty of twenty dollars for each violation, to be recovered before any justice of the peace in the city of Baltimore, to be sued for in the name of the mayor and city council of Baltimore, upon the information of any person or persons who may be cognizant of such violation, the whole of said fine to be paid to the informer. Ibid, s. 3. Engines not to pass except between 9 o'cl'ck at night and 5 in morning. Penalty.

173. The said Northern Central Railway Company shall enter into bonds with the mayor and city council of Baltimore in the penal sum of fifty thousand dollars, to take up and remove the temporary track, which permission to lay down is granted in section 170, at the expiration of two years from the laying down of the same; and in the event of the Ibid, s. 4. To give bond.

[1] The first section is as follows: that the Baltimore and Susquehanna Railroad Company are authorized to use their steam engines on the rail track, from the Bolton depot to the depot of said company, situate on city block, for the transportation of coal, plaster, lime, limestone, iron, iron ore and other minerals and earths; provided, that the rate of travel of said engines on said track shall not exceed four miles per hour; and provided further, that the steam power over the railway track hereby granted to be used by the Baltimore and Susquehanna Railroad Company to their depot on the city block, be used between the hours of nine at night and five in the morning; and that a man is required to walk in advance of the steam engine with a lighted lantern, in passing through the streets, from the Belvidere depot on North street, to their depot on the city block.

said temporary track not being taken up and removed within three months after the expiration of the above named time, then the bond shall be forfeited for the benefit of the mayor and city council of Baltimore.

Ibid, s. 5. Damages, how to be recovered

174. Any person or persons who may have suffered damages to their houses or other property, as the case may be, from the laying down or operating of said road by said company, may sue upon the said bond in the name of the mayor and city council of Baltimore; or should the Northern Central Railway Company omit, refuse or neglect to remove said track at the expiration of the two years hereinbefore stated, it shall be lawful for any person or persons who may conceive themselves to be aggrieved by such omission, refusal or neglect to remove the said track, to enter suit upon the said bond in the name of the mayor and city council of Baltimore.

Ibid, s. 6. Streets to be placed in good condition after removal of the track.

175. The track hereby authorized to be laid down shall be taken up, and the streets on which the same shall have been constructed, where the same are paved or improved, shall be restored to the same condition in which they may be at the time of laying down the track aforesaid, at the expense of the said Northern Central Railway Company.

Ibid, s. 7. Not to be released from obligations imposed by other ordinances.

176. Nothing herein contained shall be construed to release said company from the obligations imposed upon it by former ordinances in reference to the establishment of the grades of the streets upon which said temporary track shall be laid, nor to release the said company from the obligations imposed upon it by ordinance No. 57, entitled an ordinance to aid in the completion of a continuous line of railway from Sunbury, in Pennsylvania, to tide-water at Baltimore, passed at session of city council in 1854, and No. 77, passed the same session and year, entitled supplement to an ordinance entitled an ordinance to aid in the completion of a continuous line of railway from Sunbury, in Pennsylvania, to tide-water at Baltimore, passed June, 1854, but all of the obligations of the said

company shall continue and remain as though this ordinance had never passed.

No. 59, May 11, '63. Authorized to take up and remove track on Central av.

177. The mayor is hereby authorized and directed to give notice to the president and directors of the Northern Central Railway Company to take up and remove their track now in the centre of the bed of Central avenue, in accordance with the provisions of the third section of ordinance No. 31, April 10, 1837, (sec. 155, *ante.*)

Ibid, s. 2. To lay two tracks on said avenue.

178. The president and directors of the Northern Central Railway Company are hereby authorized and empowered to lay a track along the east and another along the west side of Central avenue, commencing at Orleans street on the north, and extending to and connecting, by turn-outs, with the single track of their road on Eastern avenue.

Ibid, s. 3. Not to annul power reserved

179. Nothing in this ordinance shall be so construed as to annul in any particular the powers reserved to the mayor and city council of Baltimore in the third section of ordinance No. 31, April 10, 1837, (sec. 155, *ante.*)

No. 31, s. 4, May 18, '65. Route on Canton extension.

180. The Canton extension of the railroad of the Northern Central Railway Company shall be constructed on the following described route, that is to say: Beginning at the Northern avenue, east of the present track, to some point on navigable water on the northeast branch of the Patapsco river, east of Jones' falls; and in the location and construction of the same, the said company shall be permitted, under the direction and with the consent of the said mayor and city commissioner, to adopt such grades and curves as may enable them advantageously to use locomotive engines thereon; provided that no grade of any street already graded and paved, shall be altered or interfered with, except under the direction of the mayor and city commissioner; and provided that the whole may be under such salutary regulations as the city authorities may from time to time prescribe; provided further, that the branch road as aforesaid, in its construction,

shall be carried under the Northern avenue, Decker, Charles, St. Paul, North and Belvidere streets and York avenue, and all lands and alleys intervening between said Northern avenue and the streets as aforesaid, and by a tunnel commencing at York avenue; thence southeasterly to the northernmost corner of the burial ground of the Second Presbyterian Church; the centre line of said branch road, at said corner, to be thirty-three feet therefrom, measured at right angles to the direction of said branch road; thence continuing to its intersection with Biddle street; the tunnel terminating at a point west of Gay street, crossing Gay street at its present level, as now graded and paved, and connecting said tunnel line as prolonged by a light curve with Biddle street; thence easterly along the centre line of Biddle street to a point five hundred and seventy-three feet west of the central intersection of Biddle and Chesapeake streets; thence connecting Biddle and Chesapeake streets by a curve of five hundred and seventy-three feet radius to the right, said curve terminating at a point in the centre line of Chesapeake street, five hundred and seventy-three feet south of the central intersection of Chesapeake and Biddle streets; thence southerly along the centre line of Chesapeake street to its intersection with the aforesaid branch road, as located under the provisions of section two of ordinance No. 55, entitled an ordinance to authorize the Baltimore and Susquehanna Railroad Company to extend their road to tide-water, (sec. 157–169, *ante*;) and thence by the aforesaid location to its terminus at tide-water, on the northwest branch of the Patapsco river, within the present corporate limits of the city of Baltimore; provided that so far as changes of any of the grades of the said streets, lanes or alleys shall or may be rendered necessary by the execution and completion of the said Canton extension, the said Northern Central Railway Company shall, under the direction of the said mayor and city commissioner, make the said changes, and complete and finish the new grading and paving of the said streets, lanes and alleys in a reasonable time, and in a workmanlike manner.

To tide-water.

Changes.

Grading and paving.

181. The Northern Central Railway Company shall complete, fit for use, the Canton extension, upon the route and plan above mentioned, on or before the first day of July, eighteen hundred and sixty-eight; but in case said Canton extension shall not be completed by that time, the said Northern Central Railway Company shall pay to the mayor and city council of Baltimore the sum of two thousand dollars monthly for two years after the expiration of the said three years, and three thousand dollars monthly thereafter, until the said extension is completed; the said payment so to be made to be regarded as liquidated damages, and not by way of penalty. Ibid, s. 5. Penalty.

182. The Northern Central Railway Company is hereby expressly authorized to change their route to the Calvert street station in the city of Baltimore, and is authorized to make, construct and use the same according to a second plan and profile now on file in the city register's office, setting forth the routes and grades thereof, and authenticated by the signatures of the register of said city and the president of the said Northern Central Railway Company. Ibid, s. 6. To change route. Plan and profile

183. The said Northern Central Railway Company shall, and it is made a condition precedent to the grant mentioned in this ordinance,[1] that it will forever hold its chief offices, to wit: Secretary, treasurer, superintendent, master of transportation, and master of machinery, in the city of Baltimore; that it will hold there its elections and the regular meetings of its directors; and also that said Northern Central Railway Company shall, within the limits of the city of Baltimore, or within two miles thereof, establish and forever maintain its principal workshops for all the purposes for which workshops are needed by the company, and be required to keep the bridges and streets in order on their line of road, within and two feet on the outer line of their track or tracks on either side, in thorough repair. Ibid, s. 8. Offices to be held in Baltimore. Bridges and streets to be kept in order.

[1] See the rest of this ordinance under Stocks, Loans and Finance, *post*.

Ibid, s. 9. To deposit plats.

184. The Northern Central Railway Company shall deposit in the office of the city commissioner, plats showing the location, with reference to the corners of the nearest streets, of the beginning and ending of each and every curve, as located within the limits of the city of Baltimore.

Ibid, s. 10. Domain to streets.

185. The city reserves the right of domain to all streets occupied by the Northern Central Railway Company, whether laid out according to the plat of the commissioners appointed by the general assembly in eighteen hundred and eighteen, or laid out by the railway company in pursuance of this ordinance, or of ordinance No. 55, entitled an ordinance to authorize the Baltimore and Susquehanna Railroad Company to extend their road to tide-water, June 20, 1854, (secs. 157–169, *ante*.)

Ibid, s. 11. Assent to ordinance.

186. If the said Northern Central Railway Company shall, on or before the first day of July next, in a general meeting of its stockholders, approve, assent and agree to the several provisions of this ordinance, and shall communicate said approval, assent and agreement, under its corporate seal and the signature of its president, to the register of the city of Baltimore, to be recorded and preserved in his office, then this ordinance, and every provision and stipulation thereof, shall be binding upon the said mayor and city council and the said Northern Central Rail Company.

Not binding unless company agree.

No. 76, June 20, '66. Track on Eastern avenue, &c.

187. The Northern Central Railway Company is hereby authorized to lay a single track of railway, with tram rail, from the intersection of its track on Eastern avenue and Eden street, south on Eden street to Aliceanna street, and a track, with tram rail, on Aliceanna street, from its intersection with Bond street west to Albemarle street; provided, the track extending from Central avenue, on Eastern avenue, running west to Exeter street, and thence on Exeter street to Aliceanna street, be removed; and provided further, that the track on Eastern avenue, from Eden street to Bond street,

Provisos.

and thence on Bond street to Aliceanna street, be also removed.

188. Nothing in the above section shall be construed as to annul in any particular the powers reserved to the mayor and city council in the third section of ordinance No. 31, April 10, 1837, (sec. 155, *ante.*) Powers reserved.

PHILADELPHIA, WILMINGTON AND BALTIMORE RAILROAD.

189. The Baltimore and Port Deposit Railroad Company[1] are authorized to continue and extend their track of railway along Fleet street, westwardly from its intersection with Caroline street to the intersection with President, and to build a bridge over Harford run, on Fleet street, under the direction of the city commissioner; provided, the said company agree to remove the railway from Wilk and Caroline streets, and re-place the pavement in said streets; and the mayor is authorized to give the assent of the city for the passage of Aug. 2, '37. Tracks laid along Fleet street, &c. Proviso. Assent of mayor

[1] By 1831, c. 288, s. 25, the directors of said Baltimore and Port Deposit Railroad Company were authorized to extend the said railroad to any point or points within the said city of Baltimore, which they may think proper, and to make and extend the said road from such point to the outer limits of the said city; and that the same powers, rights and privileges shall be and are hereby granted to the aforesaid company, within the limits of the city of Baltimore, in relation to and in connection with the said railroad within the said city, as are granted to them, in relation to and in connection with the said Baltimore and Port Deposit Railroad Company in any other part of the State; and the said company shall, within the said city, be subject to the same obligations that are imposed upon them in other parts of the State; provided, always, that the railroad to be constructed within the said city, shall be so constructed and made as not to interfere with the free use and travelling on the streets of said city; and provided, also, that the said railroad shall not pass through any of the streets, lanes or alleys of said city, without the consent of the mayor and city council of Baltimore being first had and obtained.

and construction of said railroad track in front of and along any property belonging to the city.

No. 70, June 16, '53.

Railroad company not to obstruct streets.

190. If at any time after the introduction of railways into the streets of the city by the president and directors of the Baltimore and Port Deposit Railroad Company, formerly so called, but now known by the name of the Philadelphia, Wilmington and Baltimore Railroad Company,[1] it shall appear that the said railways, or any part thereof, shall constitute an obstruction or impediment to the ordinary use of any street or streets of which the said mayor and city council shall be the sole judges, the directors aforesaid shall, on the

Remedy.

requisition of the mayor, either forthwith provide a remedy for the same, satisfactorily to the said mayor and city council; or, if they fail to find such remedy, they shall, within one

Duty of mayor.

month after receiving such requisition, proceed to remove such obstruction or impediment, and to re-place the street or streets in the same condition in which they were before the railway was laid down; and should the said president and directors decline or neglect to obey the requisition of the

Notice.

mayor, the mayor, after having given one month's notice, shall cause the obstructions or impediments to be removed, and the original condition of the street or streets restored, at the expense of the said president and directors.

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[1] The Philadelphia, Wilmington and Baltimore Railroad Company was formed by the union of several railroad companies previously chartered by Maryland, Delaware and Pennsylvania, two of which were the Baltimore and Port Deposit Railroad Company, whose road extended from Baltimore to the Susquehanna, lying altogether on the west side of the river, and the Delaware and Maryland Railroad Company, whose road extended from the Delaware line to the Susquehanna, and lying on the east side of the river. *Phil., Wilm. & Balt. R. R. Co.* v. *Md.*, 10 How. S. C. R., 376.

ARTICLE XXXVII.

REGISTER.

ORDINANCES.

1. Register to be appointed: to give bond.
2. Deputy register: his bond: oath.
3. When deputy may officiate.
4. Council to fill vacancy: mayor to summon the council to fill vacancy.
5. Duties of the register: city seal: fees: exception.
6. Further duties: how to dispose of and draw for money: accounts: to report to council.
7. When authorized to obtain advances from bank.
8. Duty as to claims against the city.
9. Office hours.
10. Clerk and assistant clerk: compensation: extra assistance: proviso.
11. Compensation of register and deputy: fees, how disposed of.

ORDINANCES.

1. There shall be biennially appointed, in the month of January, by a convention of both branches of the city council, a person of integrity to serve as Register of the city, who shall perform the duties required of him either by this or any other ordinance, and who shall, before he enters upon the duties of his office, execute a bond to the corporation, with such securities as the mayor and presidents of the respective branches of the council may approve, in the penal sum of fifty thousand dollars, and with the condition that he will faithfully discharge his duties and the trust reposed in him, which bond shall be deposited by the mayor in such fire proof vault as he may select during his term of office, and at the expiration thereof, be delivered by him to his successor.

No. 8, s. 1, R. O.; No. 8, Feb. 21, '68; No. 65, May 30, '56; No. 56, April 26, '64. Register to be appointed.

To give bond.

2. The register is hereby authorized and directed to appoint a deputy, who shall make all collections for the commissioners of finance for rents of city property, and who shall

No. 8, s. 2, R. O. May appoint a deputy.

perform all such duties of the office as the register shall from time to time prescribe and direct, for whose acts the register shall be held responsible; the register shall have power to require from his said deputy a bond, with condition for the faithful performance of his duties, with such penalty and such security as he may deem proper, and before he enters upon the duties of his office, the said deputy shall take the oath prescribed to officers of the corporation.[1]

May require bond from his deputy.

Oath.

When deputy may officiate.

3. In the event of the necessary absence of the register from sickness or other cause, the said deputy, with the written assent of the mayor, shall have full power and authority to exercise and perform all the duties of the register.

Council to fill vacancy.

4. Whenever a vacancy shall occur in the office of register of the city, it shall be the duty of the convention of the two branches of the city council to fill such vacancy, and the person appointed to fill such vacancy, shall, before he enters upon the duties of his office, execute a bond agreeably to the provisions of the first section of this ordinance, and it shall be the duty of the mayor forthwith to summon the city council for the purpose of filling the said vacancy in the office of register, if the same shall occur during the recess.

Mayor to summon the council to fill vacancy.

Ibid, s. 5; No. 28, May 6, '65. Duties of the Register.

5. The register shall take under his charge and keeping the corporate seal of the city, and use it in all cases which now are or may hereafter be required, either by the laws of the United States, the several States, the ordinances of this corporation, or the usage and customs of nations, whenever applied to for that purpose; and for each and every seal which he shall affix to an instrument or instruments of writing, he shall be entitled to receive for the use of the city, the sum of two dollars, except that in cases where the register's certificate, under seal, shall be required to be used as evidence in the claims of soldiers and seamen in the United States service, or in the claims of their widows, or heirs of such as have died, or may hereafter die in the service; in which cases, he

City seal.

Fees.

Exception.

[1] See Art. 1, sec. 33, p. 21, *ante*.

shall furnish such certificate without any charge whatever. He shall further be authorized to charge and receive the following fees: for authenticating copies of records, fifteen cents for each and every sheet containing one hundred words, and so, pro rata, for every search, and for every certificate to a copy, twenty-five cents, for the use aforesaid. Fees.

6. The register shall take under his charge and keeping, all the records, papers and proceedings of the corporation, except those relating to titles of city property; all the ordinances, resolutions, votes and proceedings of the city council, after each and every session; and shall record or cause to be recorded in a book or books, all appointments of each and every officer of this corporation; and shall likewise take under his charge, all money now belonging to, or which may hereafter belong to this corporation, and shall immediately deposit the same in the National Farmers and Planters' Bank of Baltimore, or such other bank as the mayor and presidents of the two branches may think proper, in the name of the mayor and city council of Baltimore; and he is hereby directed, upon endorsement of their correctness by the comptroller, to make all payments with checks on said bank, countersigned by the mayor, and drawn to the order of some person or persons having authorized claims against the city, and for the exact amount thereof, which he shall regularly enter in a bank book, particularly stating the date, the name of the person or persons, and the amount; and it shall be his duty to keep regular and correct accounts, in a book or books, in folio, of all money received and expended by him on account of the city, particularly stating, under proper heads, the specific objects from whence received and for what expended; and shall annually lay before the council, in the first week of the annual session, his account of all moneys received and expended by him during the past year, supported by proper vouchers; also, a statement of the estimated receipts and payments required for the current year, and any other information connected with the finances of the city, which may Ibid. s. 6. Further duties. How to dispose of and draw for money. Accounts. To report to council.

be calculated to aid the council in their deliberations upon the subject; and when required by the mayor, he shall exhibit to him his accounts and vouchers, his bank book and crossed checks.

Ibid, s. 8. When authorized to obtain advances from bank.

7. In anticipation of the revenue from collections, under the levies made for that purpose, the register is hereby authorized to make such arrangements with the bank in which the account of the city is or may be kept, for the advance of such sum or sums of money as may be required from time to time to enable him punctually to meet the interest on the city stock debt—the bank so advancing the money to apply it to the payment of such interest.

Ibid, s. 13. Duty as to claims against the city.

8. It shall be the duty of the register to ascertain the amounts of all claims that may be made against the corporation, and report the same to the city council in the second week of its annual session.

Ibid, s. 15. Office hours.

9. The register shall keep his office in the same house with the mayor, and shall attend there every day (Sundays excepted) from nine o'clock in the morning to three in the afternoon, unless prevented by sickness or other unavoidable cause.

Ibid, ss. 2, 17, No. 33, May 5, '68; No. 35, May 14, '67; No. 65, May 30, '66; No. 56, Apl. 26, '64; No. 86, Sept. 20, '60; res. No. 4, Dec. 17, '62; No. 59, Aug. 13, '62. Clerk and assistant clerk. Compensation Extra assist'ce. Proviso.

10. The register is authorized to employ in his office a clerk, whose compensation shall be fourteen hundred dollars per annum, and an assistant clerk, whose compensation shall be nine hundred dollars per annum; and the register is further authorized to obtain such extra assistance in his office as may be required; provided, the whole expense shall not exceed the sum of six hundred dollars.

No. 8, s. 17, R. O.; No. 33, May 5, '68; No. 35, May 14, '67. Compensation of Register and deputy. Fees.

11. The register shall receive for his services the compensation of twenty-five hundred dollars per annum, and the deputy register, fourteen hundred dollars per annum, payable monthly; and all fees or perquisites of or appertaining to the office or allowable to them under the statutes of the State or

ordinances of the corporation of Baltimore, (except the payment made to the register by the State treasurer, under the authority of sec. 102 of art. 81, Public General Laws,) shall be paid into the city treasury.[1]

ARTICLE XXXVIII.

SABBATH.

STATUTES.

1. Observance of the Lord's day: penalty.
2. Selling, giving away, &c., liquors, cigars, &c.: penalty: license: milk or ice dealers and apothecaries.
3. Keeping open dancing saloons, ten-pin alleys, barber shops, &c., on Sunday: penalty: barbers and livery stable keepers.

ORDINANCES.

1. Penalty for driving cattle, &c., through the streets on the Sabbath: exceptions.
2. Penalty for selling fruit, liquor, &c., on the Sabbath.
3. Penalty for sporting and gaming on the Sabbath.
4. Bands of music not to parade on the Sabbath: penalty.

STATUTES.

1. No person shall work or do any bodily labor on the Lord's day, commonly called Sunday; and no person, having children or servants, shall command, or wittingly or willingly suffer any of them to do any manner of work or labor on the Lord's day, (works of necessity and charity always excepted,)

P. G. L. art. 30, sec. 178. Observance of the Lord's day.

[1] See further as to Register, art. 1, sec. 27, p. 13; secs. 22-28, pp. 18-20, *ante*, and secs. 76, 77, p. 45, *ante*, and art. 6, sec. 1, p. 76, *ante*.

nor shall suffer or permit any children or servants to profane the Lord's day by gaming, fishing, fowling, hunting, or unlawful pastime or recreation; and every person transgressing this section, and being thereof convicted before a single justice, shall forfeit five dollars, to be applied to the use of the county or city.[1]

Penalty.

1866, c. 66. Selling, giving away, &c., liquors, cigars, &c., on Sunday.

2. No person in this State shall sell, dispose of, barter, or if a dealer in any one or more of the articles of merchandise in this section mentioned, shall give away on the Sabbath day, commonly called Sunday, any tobacco, cigars, candy, soda or mineral waters, spirituous or fermented liquors, cordials, lager beer, wine, cider or any other goods, wares, or merchandise whatsoever; and any person violating any one of the provisions of this section shall be liable to indictment in any court in this State having criminal jurisdiction, and upon conviction thereof shall be fined a sum not less than twenty nor more than fifty dollars, in the discretion of the court, for the first offence; and if convicted a second time for a violation of this section, the person or persons so offending shall be fined a sum not less than fifty nor more than five hundred dollars, and be imprisoned for not less than ten nor more than thirty days, in the discretion of the court; and his, her, or their license, if any were issued, shall be declared null and void by the judge of said court; and it shall not be lawful for such person or persons to obtain another license for the period of twelve months from the time of such conviction; nor shall a license be obtained by any other person or persons to carry on said business on the premises or elsewhere, if the person so as aforesaid convicted has any interest whatever therein, or shall divide any profit whatever therefrom, and in case of being convicted more than twice for a violation of this

Penalty.

License.

[1] This section is the act of 1723, c. 16, s. 10. The original acts for observance of the Sabbath, were 1723, c. 16; 1834, c. 244; 1847, c. 193. For decisions on these acts, see *State* v. *Fearson*, 2 Md., 311. *Phil., Wilm. & Balt. R. R. Co.* v. *Phil. & H. S. T. Co.*, 23 How., 217. *Powhatan Steam Co.* v. *Appomatox R. R. Co.*, 24 How., 247. *Bode* v. *State*, 7 Gill, 324. *Capritz* v. *State*, 1 Md., 569.

section, such person or persons on each occasion shall be imprisoned for not less than thirty nor more than sixty days, and fined a sum not less than double that imposed on such person or persons on the last preceding conviction, and his, her, or their license, if any were issued, shall be declared null and void by the court, and no new license shall be issued to such person or persons for a period of two years from the time of such conviction, nor to any one else to carry on said business wherein he is in anywise interested, as before provided for the second violation of the provision of this section; one-half of all the fines to be imposed under this section shall be paid to the State, and the other half to the informer; this article is not to apply to milk or ice dealers in supplying their customers, or to apothecaries when putting up bona fide prescriptions.

Milk or ice dealers and apothecaries.

3. It shall not be lawful to keep open or use any dancing saloon, opera house, ten-pin alley, barber saloon, livery stable (except for funeral purposes,) 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, their 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 be imprisoned not less than ten nor more than thirty days, in the discretion of the court, and in 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, them, or it, on the last preceding conviction, and be imprisoned not less

1866, c. 66.
Keeping open dancing saloons ten-pin alleys, barber shops, &c., on Sunday.

Penalty.

than thirty nor more than sixty days, in the discretion of the court; one-half of all fines to be imposed under this section shall be paid to the State, and the other half to the informer.

Barbers and livery stable keepers.

Nothing herein shall be so construed as to prohibit barbers or livery stable keepers from the prosecution of their legitimate business between the hours of one o'clock, A. M., and twelve, P. M., on the Lord's day, known as the Sabbath.

ORDINANCES.

No. 33, s. 39, R. O.; No. 90, Sept. 26. '60. Penalty for driving cattle, &c., through the streets on the Sabbath.

1. It shall not be lawful for any person or persons to drive any cattle, droves of horses, mules, sheep or hogs through any of the streets, lanes or alleys of the city, within the limits of direct taxation, on the Sabbath day, under a penalty of five dollars per head for each and every offence; provided,

Provisos.

that nothing herein contained shall apply to horses and mules brought to the city on the Sabbath day, being taken to the

Exceptions.

nearest stables; and provided further, that it shall be lawful for all persons bringing live stock to the city by railroad, to have the same conveyed to the cattle pens on the Sabbath day.

No. 33, s. 53, R. O. Penalty for selling fruit, liquor, &c., on the Sabbath.

2. Every person who shall within the city, on the Sabbath day, sell or offer to sell at any wharf or on board any boat, or in any market house, or carry through the streets for sale, any watermelons or other fruit, cakes, ice cream or other confectionery, or any kind of liquor or other article, shall for such offence pay a fine of five dollars.

Ibid, s. 54, Penalty for sporting and gaming on the Sabbath.

3. Every person who shall fish, hunt, pitch quoits or money, fly a kite, play bandy or ball, or any other game or sport on the Sabbath day within the limits of the city, shall for each offence pay a fine of one dollar; and every ordinary or public garden keeper who shall suffer or allow in or upon his premises any kind of gaming or sport on the Sabbath day, shall, for every individual so permitted to offend, pay ten dollars.

4. It shall not be lawful for any band or number of musicians, excepting military companies, when called out by the State or municipal authorities, to parade in any of the streets, lanes or alleys of the city on the Sabbath day, with instrumental music, under a penalty of twenty dollars, for each member of said band so parading for each and every offence.[1] Ibid, s. 59. Bands of music not to parade on the Sabbath. Penalty.

ARTICLE XXXIX.

SCHOOLS.

STATUTES.

1. Mayor and council to establish schools: powers.
2. Powers of commissioners of public schools: proviso: report to principal of normal school.
3. Ordinances by mayor and council.
4. Taxes.
5. State treasurer to pay school fund to city.
6. Estates undistributed for want of representatives to go to schools: Orphans' Court to order payment to public school commissioners.
7. Court to give notice before so ordering.
8. Release to be given to administrator.
9. What obligation, release to contain: to be recorded.
10. If representatives appear, money to be refunded.
11. Rights of Charitable Marine Society.

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[1] See further as to observance of the Sabbath, under art. 8, secs. 15, 16, p. 91; art. 22, sec. 152, p. 271; art. 23, sec. 142, p. 326; art. 32, sec. 57, p. 521; art. 36, sec. 1, pp. 572, 584, 598, *notes*.

ORDINANCES.

COMMISSIONERS OF PUBLIC SCHOOLS.

1. How and when appointed: proviso.
2. President: secretary: salary of secretary: quorum.
3. Vacancies.
4. Superintendent of public instruction: his duties.
5. Examination of applicants for positions as teachers: superintendent's duty as to teachers.
6. Salary of superintendent: report to council.
7. Duty of city register.
8. Powers and duties of commissioners: teachers, books, &c.: by-laws and regulations: proviso: report to council.
9. Board to have charge of public school buildings: repairs: proviso.
10. Members of board not to be interested in contracts, &c.
11. Salaries: register.
12. No charge for tuition: books and stationery: provisos.
13. Parents, &c. to be citizens of Baltimore.
14. Books, how admitted and discontinued.
15. Bequests, &c. regulated.
16. Register's duty with regard to public school fund.
17. Assessments for paving, &c.: how paid.
18. Annual appropriations not to be exceeded.
19. Certificates, when to be conferred.
20. To be paid out of school fund: proviso.
21. Certificates in female high schools.
22. Certificates, when to be given to certain pupils.

FLOATING SCHOOL.

23. To be organized.
24. How controlled.
25. Studies: agreement with board of trade as to ship, apparatus, &c.
26. How to be designated.
27. Permission to board of trade to select two commissioners.
28. City's right to discontinue.

SCHOOLS FOR COLORED CHILDREN.

29. Organized.
30. Rules and regulations.
31. Taxes paid by colored persons.

LIBRARIES.

32. Established.
33. Selection of books.

PEABODY PRIZES.

34. Commissioners authorized to receive: to distribute same.

STATUTES.

1868, c. 407, title 2, c. 7, s. 1. Mayor and council to establish schools.

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

Powers.

rules for building school houses and for locating, establishing and closing schools, and may in general do every act that may be necessary or proper in the premises.[1]

Ibid s. 2. Powers of commissioners of public schools.

2. The board of commissioners of public schools of Baltimore city, or by whatsoever 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 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 principal of the State Normal School 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 principal of normal school.

Ibid, s. 3. Ordinances by mayor and council.

3. The said mayor and city council of Baltimore shall have power and authority to make all ordinances for the protection of the school houses and school property, and to punish any person who may disturb the sessions of the 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 tax as may be necessary to defray all the expenses incurred for educational purposes by said mayor and city council.

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[1] See Sup. to Code for 1868, pp. 175–200, for the law for "Public Education" throughout the State, being the act of 1868, c. 407.

P. L. L., art. 4. sec. 828.
State treasurer to pay school fund to city.

5. The treasurer of Maryland shall annually pay to the mayor and city council such portion of the school fund of the State as said city may be entitled to.[1]

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[1] As to apportionment of school tax, &c., see 1868, c. 407, chap. 10, of title II, Sup. to Code for 1868, pp. 199–201. The act of 1868, c. 191, entitled an act to authorize and require the comptroller to correct the errors in the distribution of the free school fund accruing under the acts of 1813 and 1816, from the year 1852 to the year 1867, inclusive, and to pay to Baltimore city and Baltimore county the amounts of which they have been deprived by said errors, and to make appropriation for that purpose; recites that, whereas, the act of 1813, c. 122, and the act of 1816, c. 156, provide that the "free school fund" shall be divided equally among the several counties of this State; and whereas, Baltimore city and Baltimore county became separate and distinct jurisdictions by virtue of the constitution which went into operation on the fourth day of July, eighteen hundred and fifty-one, and were each from that date legally entitled to a full and equal share of said "free school fund," under the same construction of the law by which both Carroll and Howard counties, after they became separate jurisdictions, were each apportioned and paid with the other counties an equal share of said "free school fund;" and whereas, by inadvertance or oversight, Baltimore city and Baltimore county were each paid only one-half of the amount of said "free school fund," which was paid to other counties for the period of sixteen years, viz: from the year 1852 to the year 1867, inclusive; therefore this act enacts, that the comptroller be and he is hereby authorized and required to correct the errors in the distribution of the "free school fund," accruing under the acts of 1813 and 1816, for the period of sixteen years, from the year 1852 to the year 1867, inclusive, by paying to Baltimore city and to Baltimore county, each the sum of eight thousand four hundred and sixty-three dollars and thirty-eight and a half cents, being the amounts of which they have been deprived by the errors in the distribution of said "free school fund," as will fully appear on the books and accounts of the comptroller.

That the sum of sixteen thousand nine hundred and twenty-six dollars and seventy-seven cents be and the same is hereby appropriated for the purpose aforesaid, out of any money in the treasury not otherwise appropriated.

That the treasurer, upon the warrant of the comptroller, shall pay to the treasurers of the boards of school of Baltimore city and Baltimore county each the sum of eight thousand four hundred and sixty-three dollars and thirty-eight and a half cents, to be applied as other school funds are now applied.

That the comptroller be and he is hereby instructed and required in the future distribution of the "free school fund," herein aforementioned, to apportion to Baltimore city a like and equal share with each county of the State. See P. G. L., art. 84.

1868, c. 407, title II, c. 10, s. 3, provides that, the several colleges and academies shall respectively receive the donations granted to them by any laws or resolutions of the general assembly, subject to the conditions annexed thereto. See P. G. L., art. 84.

BALTIMORE FEMALE COLLEGE.

Public General Laws, art. 84, secs. 10–16, and 1865, c. 160, title II, c. 9, s. 1, and 1868, c. 400, enact the following:

10. The sum of twenty-five hundred dollars shall, on the warrant of the comptroller of the State, be annually paid on the first day of April of each year to the president of the board of trustees of the Baltimore female college, for the support of said institution, subject to the condition that said college shall afford tuition in all the branches taught, and use of books free of charge, to one student for every hundred dollars that such college receives from the State.

11. In consideration of the above amount granted by the State for the support of said seminary of learning, the trustees of the said Baltimore female college shall establish free scholarships, upon which one pupil from each county in the State, and one from the city of Baltimore, shall be admitted to all the instruction given in the college, and to all the privileges of the normal class, and all necessary books, without any charge whatever.

12. When any of the young ladies educated as above shall have completed the usual course of study, and in the judgment of the faculty of the college, and the board of trustees, shall exhibit ability and aptness to teach, they shall receive, in addition to the ordinary degree of the college, a diploma which shall set forth their qualifications for the duties of an instructress of youth.

13. The judges of the Orphans' Court in each county in the State, and of the city of Baltimore, shall for their counties and for the city of Baltimore respectively designate from time to time the persons who are to enjoy the privileges of said free scholarships.

14. The trustees of the Baltimore female college shall from time to time advise the aforesaid Orphans' Courts of the several counties and of the city of Baltimore respectively of any existing or expected vacancies in the said free scholarships, so that there may be kept at all times one pupil from each county and from the city of Baltimore in the enjoyment of the privileges of education thus secured to the several counties and the city of Baltimore.

15. After such notification, if any vacancy shall exist in consequence of the Orphans' Court of any of the counties not having any beneficiary to recommend, then the trustees of the said college shall be entitled only to a pro rata amount of the twenty-five hundred dollars, according to the number of pupils actually educated for the State as hereinbefore provided.

16. The trustees of the Baltimore female college shall send a report of the condition of the said institution to the general assembly at each session of the legislature, and a report to the governor of the State each year in which the legislature is not in session.

1868, c. 400, entitled an act to increase the number of free scholarships in the Baltimore female college, and to change the manner of appointing the beneficiaries and board of trustees, recites that, whereas, since the endowment of the Baltimore female college, two new senatorial districts have been established in Baltimore city, and the county of Wicomico has been erected; therefore, it enacts, that three additional free scholarships be established in the Baltimore female college, upon which two pupils from the city of Baltimore, and one from the county of Wicomico, shall be admitted to all the instructions given in the college, and to the privileges of the normal class, with the use of all necessary books, without any charge whatever.

That to meet the expenses of the above, the further sum of three hundred dollars, in addition to the present donation of twenty-two hundred dollars, (by

Ibid, sec. 829.
Estates undistributed for want of representatives to go to schools.
Orphans' Court to order payment to public school commissioners.

6. The Orphans' Court of said city shall order and direct the funds arising from intestates' estates that may be administered upon in said court, and which remain undistributed for want of legal representatives of the intestates to claim the same, to be paid to the board of commissioners of public schools.[1]

P. G. L., art. 84, sec. 10, $1,500, and 1865, c. 160, $700,) shall, on the warrant of the comptroller of the State, be annually paid on the first day of April, in each and every year, to the president of the board of trustees of the college.

That in filling vacancies in all the free scholarships established in the college by the State, the Orphans' Courts of the several counties and of the city of Baltimore, shall always give preference to such applicants as may be presented to them by the several boards of school commissioners respectively of the several counties.

That instead of the usual mode of selecting an annual board of trustees, the present trustees, and their successors, constitute a permanent board of trustees, with power to fill all vacancies that may occur by death, resignation or removal from the city.

1865, c. 160, title II, c. 9, s. 2, provides that the sum of three thousand dollars shall, on warrant of the comptroller, be paid annually by the treasurer to the faculty of Arts and Sciences of the University of Maryland, situate in Baltimore, for the support of the college department; said faculty to afford tuition in all branches taught, and use of books, free of charge, to one student for every hundred dollars received from the State.

[1] Public General Laws, art. 93, secs. 136 and 137, are as follows:

If there be no widow or relations of the intestate within the fifth degree, which shall be reckoned by counting down from the common ancestor to the more remote, the whole surplus shall belong to the State, and shall be paid to the college, if any, in the county where the deceased shall die, or if none, to any school in the county to which the public aid by law may be extended, and if none, to the county where the property of the intestate shall lie.

If any legal representative shall appear, after payment has been made, under the preceding section, the college, school, or county receiving such payment, shall pay the same to such representative, but no collateral more remote than brothers' and sisters' children shall claim under this section.

The mode of ascertaining the degree of kindred between two individuals, since the act of 1798, c. 101, is to reckon by counting down from the common ancestor to the more remote of the two, and there is not a different mode of computing relationship, where the schools are to have the surplus, from that prescribed, where it is to be distributed among the kindred of the deceased. *C. H. School* v. *Greenwell*, 4 G. & J. 407. See *Thomas, adm'r* v. *Fred. Co. School*, 7 G. & J. 369. The dying without relations within the fifth degree may be established by circumstantial or presumptive evidence. *Thomas, adm'r* v. *Fred. Co. School*, 7 G. & J. 369.

7. The court shall not make such order until they shall be satisfied that the intestate left no legal representatives living at the time of his or her death, and they shall cause the administrator of such intestates to give notice, by advertisement to be inserted for such periods of time and in newspapers published in such places as they may deem necessary, that upon default of the appearance of any legal representative of the intestate, by a certain day to be fixed by the court, and named in said advertisement, the estate of said intestate will be paid to the commissioners of public schools.

Ibid. sec. 830. Court to give notice before so ordering.

8. They shall, upon passing an order directing such payment, require from the treasurer of the board of commissioners of public schools, or any other officer who may be appointed by said board of commissioners, or the mayor and city council of said city, to receive such funds, a receipt and release to the administrator for the same.

Ibid, sec. 831. Releases to be given to administrator.

9. The release shall contain an obligation that the said funds shall, by the board of commissioners of public schools, be applied to the use and support of the public schools of the city of Baltimore, and shall be recorded and preserved in said court as other records are.

Ibid, sec. 832. What obligation release to contain, to be recorded.

10. If the estate of an intestate shall be paid to the board of commissioners of public schools under this law, and any legal representatives of the intestate of no remoter degrees among collaterals than brothers' or sisters' children, shall at any time appear and prove him, her or themselves to be such legal representatives, the board of commissioners of public schools who received such estate, or their successors, if the same shall be in their hands or shall have been applied to the use of the public schools, shall restore the same to such legal representative or representatives out of the school fund under their direction.

Ibid, sec. 833. If representatives appear, money to be refunded.

11. Nothing contained in this law shall be construed to interfere with or affect the rights vested in the Charitable Marine Society of Baltimore.[1]

Ibid, sec. 834 Rights of charitable marine society.

[1] See art. 13, sec. 44, p. 138, *ante*.

ORDINANCES.

COMMISSIONERS OF PUBLIC SCHOOLS.

No. 74, s. 1, June 20, '66. How and when appointed.

1. There shall be appointed in the month of February[1] in each and every year, by the two branches of the city council, in convention assembled, twenty persons, to be called commissioners of public schools, one commissioner to be selected from each of the several wards of the city; and said commissioners shall continue in office for one year, and from the end of that time until a new board shall have been appointed; provided that if any commissioner shall remove from the ward from which he was appointed before the expiration of the year, then his place in the board shall be declared vacant, and the board may declare vacant the place of any commissioner who shall absent himself from three successive stated meetings of the board, without showing satisfactory cause for his non-attendance, after having been duly notified of the same.

Proviso.

Ibid, s. 2. President. Secretary.

2. Said commissioners shall meet within ten days after their election, and at their first meeting they shall proceed to the election of president from their own board, to be chosen by a majority of the whole body; also, a person to act as secretary, who shall serve for one year, unless sooner removed by the board, and who shall have charge of the rooms, books, papers and documents of the board, and shall perform such clerical duties as may be required of him by its members or committees; the board shall assign the duties to be performed by him, and shall fix his salary, subject to the approval of the two branches of the city council.[2] If a vacancy should occur

Salary of secretary.

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[1] By ord. No. 2, Nov. 13, '67, it was provided that a new board of commissioners of public schools shall be elected in the usual manner, on the second Thursday in this present month of November, who shall enter upon the duties of their office as soon as elected, and continue in office until the month of February, in the year eighteen hundred and sixty-nine.

[2] By Res. No. 74, Mar. 16, '69, the action of the school board in the matter of the salaries of the superintendent of public instruction and the secretary to the board, fixing the salary of the former at $2,500, and that of the latter at $1,700 per annum, is approved.

in the office of secretary, from any cause whatever, it shall be the duty of the board to elect a person to fill said vacancy as soon as it can conveniently be done; and in all cases a majority of the commissioners shall constitute a quorum for the transaction of business. Quorum.

3. Whenever a vacancy or vacancies shall occur in the board of commissioners of public schools during the session of the city council, it shall be the duty of the president of the board to inform the mayor of such vacancy or vacancies, who shall communicate the same to the first and second branches of the city council, who shall proceed in convention, according to their respective rules to fill said vacancy or vacancies. If a vacancy or vacancies shall occur during the recess of the city council, by death, resignation or otherwise, it shall be the duty of the board to fill the same as soon as may be convenient; the person or persons, so elected, to serve until the next session of the city council. Ibid, s. 3. Vacancies.

4. There shall be appointed by the board a suitable person to be the superintendent of public instruction for the city of Baltimore, who shall be a resident of the city of Baltimore, of literary and scientific acquirements, and of skill and experience in the art of teaching, and who shall serve for the term of four years, unless sooner removed by the board. It shall be the duty of the superintendent to devote his time and attention entirely to the general supervision of the public schools of the city, subject to such rules and regulations as the board of school commissioners may establish. It shall especially be the duty of the superintendent to visit every school under the charge of the board of public school commissioners as often as once in each quarterly session, or four times during the academic year; to examine into its respective studies, and to inquire into all matters relating to the government of the schools, such as its curriculum of studies, discipline and course of instruction pursued therein, the text books that are used, the condition of the school houses, and Ibid, s. 4. Superintendent of public instruction. His duties.

Report. to make a monthly report of the matters thus specified to the board of public school commissioners.

Ibid, s. 5. Examination of applicants for positions as teachers. 5. In order to advance the interests of the schools committed to his charge, the superintendent, in conjunction with a committee of three members of the school board, shall, in the forms prescribed by the board, examine into and ascertain the qualifications of applicants for the situation of teachers, and to re-examine, if necessary, any of the teachers employed in the schools under the charge of the board; and, in order further to promote the cause of sound education, and to elevate the character and qualifications of the teachers, the superintendent shall, by all the means in his power, counsel and advise with the teachers in relation to their duties, the proper classification of studies, the best methods of imparting instruction, and, in general, to the proper discipline and management of the schools under their charge.

Superintendent's duty as to teachers.

Ibid, s. 6. Salary of superintendent. 6. The salary of the superintendent shall be fixed by the board of public school commissioners, subject to the approval of the two branches of the city council; and he shall make annually a report, in writing, to the mayor and city council of all matters of interest or importance in connection with the schools; and shall also, when requested, furnish to the board of commissioners of public schools of the city, a written statement, showing the number of schools in the city, the number of pupils under instruction, and the teachers employed therein, with such additional information in respect to the matters above specified as may be deemed advisable and necessary.

Report to council.

Ibid, s. 7. Duty of city register. 7. The register is authorized to receive, through the secretary of the board, all moneys from the teachers, and all other funds due the school board, and pay out of the funds standing in the treasury of the city to the credit of the public schools, any orders that are provided for in the levy for school purposes, after having been examined by the committee on accounts and passed by the board, signed by the president

and countersigned by the secretary of the board of public school commissioners.

Ibid, s. 8. Powers and duties of commissioners.

8. The said board of commissioners of public schools shall have charge of the public schools in operation in the city of Baltimore, and of all such as may be in operation during their continuance in office; and it shall be their duty to employ teachers and determine their salaries; to prescribe the courses of study and the books to be used; to make all such by-laws for their own government, and all such rules and regulations for the management of the schools as they may deem expedient, and to modify and repeal the same at their pleasure; provided, that such by-laws, rules and regulations, so made or modified, be not inconsistent with the laws of the State, or the ordinances of the city. And it shall further be the duty of said board, during the first week of each annual session of the city council, to report to the mayor and city council, a statement of its transactions, with an account of their receipts and expenditures during the year, and their resources for the year then commenced.

Teachers.

Books, &c.

By-laws and regulations.

Proviso.

Report to council.

Ibid, s. 9. Board to have charge of public school buildings.

9. The commissioners of public schools shall have charge of all the buildings used for school purposes, and they are hereby authorized to make all necessary repairs in the school houses of the city; provided, the same shall not exceed the sum of three hundred dollars.

Repairs.

Proviso.

Ibid, s. 10. Members of board not to be interested in contracts, &c.

10. The said board of commissioners of public schools shall not employ in building, repairing or improving, or in furnishing stationery or any other kind of supplies, any member of said board; nor shall any member of said board be interested, directly or indirectly, in any contract whatever for the use of the public schools.

Ibid, s. 11; No. 51, Apl. 15, '59. Salaries.

11. The salaries of the superintendent and secretary of the board, and of the teachers and all other persons permanently employed by the commissioners of public schools, shall be paid monthly, on the last day of each month, by the city register; and he is hereby authorized, in case of any defi-

Register.

ciency in the collection of the school fund, or in anticipation of the levy for the same, to advance, from time to time, to said fund, such sums as shall be required for the payment of said salaries at the time when they shall be due.

Ibid, s. 12. No charge for tuition. Books and stationery.

12. There shall be no charge for tuition in any of the public schools, but it shall be the duty of the commissioners to furnish all the necessary books and stationery for the several schools, and in general whatever fuel or other supplies the schools may require—the same to be paid for from the public school fund; and each pupil shall pay, in advance, one dollar per quarter for the books used by them, which shall go to the school fund; provided, that nothing in this section shall be so construed as to prevent the board from furnishing the use of books to the children of parents in indigent circumstances; provided further, that pupils may furnish their own books, if they so prefer.

Provisos.

No. 40, s. 11, R. O. Parents, &c. to be citizens of Baltimore.

13. The public schools of Baltimore are designed exclusively for the education of those pupils whose parents, or in the case of orphans, whose guardians, are citizens of Baltimore, or residents of Baltimore with a bona fide intention to become citizens.

Ibid, s. 12. Books, how admitted and discontinued.

14. The commissioners of public schools shall not admit any book or books into use in the public schools, or discontinue the use of the same after having been admitted, unless said admission or discontinuance be approved by a vote of a majority of the entire board in session assembled at a regular meeting of said board.

Ibid, s. 14. Bequests, &c, regulated.

15. The said commissioners of public schools are hereby authorized to receive all devises, bequests and donations which may be made for the benefit of said public schools, and all devises, bequests and donations received by said commissioners, by virtue either of this section or of any act or acts of the general assembly of Maryland, shall be paid over by them to the register of the city, who shall place the same to the credit of the school fund; and if any condition or con-

ditions be prescribed in any such devise, bequest or donation, the same shall be applied under the direction of said commissioners, with the sanction of the mayor and city council, agreeably to the intention of the testator or donor; and if no condition be prescribed in any such devise, bequest or donation, it shall not be lawful for said commissioners to draw all or any part of the amount thereof, out of the city treasury during the year in which it was received, unless the collections from the resources and levy of the school fund for said year should fall short of the estimated expenditures forming the basis of said levy; or unless it shall have been already allowed in the estimated resources of the fund for said year, otherwise the same shall be included in the estimate of the ensuing year. Conditions.

16. The register of the city shall demand and receive, from time to time, from the treasurer of Maryland, from the commissioners of finance and from the collector of the city, all such sum or sums of money as may be in their hands for the support of the public schools of the city, and he shall place the same to the credit of the public school fund. Ibid, s. 15. Register's duty with regard to the public school fund.

17. All assessments for paving or repaving in front of any of the public schools, or lots of ground attached thereto, and also all assessments of benefits for opening or widening any street or streets, so far as the public schools may be interested, shall be paid by the register out of any unappropriated money in the treasury. Ibid, s. 16. Assessments for paving, &c., how paid.

18. It shall not be lawful for said board of commissioners of public schools to exceed in their expenditures the amount annually appropriated therefor by the city council; and it shall be their duty to apply the same exclusively to the several purposes, and as far as practicable, in the proportion specified in the statement of estimated expenses, on which said city council shall have based the school fund levy for the year. Ibid, s. 18. Annual appropriations not to be exceeded.

Ibid, s. 19. Certificates, when to be conferred.

19. The male public high school of Baltimore shall be styled the Baltimore city college;[1] and whenever any of the pupils of said school shall have satisfactorily completed the prescribed term and course of instruction, the commissioners of public schools shall have power to confer on them testimonials, in form as follows, viz: This certificate is given to ——— ———, a pupil of the Baltimore city college, in testimony that he has pursued and satisfactorily completed the studies of the —— course of —— years; and said testimonials shall be signed by the president of the board, by the mayor of the city, with the seal of the city attached, by the committee on the Baltimore city college, and by the principal, vice-principal and professors of said college.

Ibid, s. 20. To be paid for out of school fund.

20. Said commissioners of public schools are authorized to cause said testimonials to be engraved on copper, or lithographed, with a suitable vignette, the expenses necessarily connected with the preparation of said testimonials to be paid from the school fund; provided, that no commissioner or teacher shall ever charge or receive any fee or compensation for so signing said testimonials.

Proviso.

Ibid, s. 21. Certificates in female high schools.

21. Said commissioners of public schools shall have power to confer testimonials on pupils of the Eastern and Western female high schools, in conformity with the requisitions and provisions of the two preceding sections.

Ibid, s. 22. Certificates, when to be given to certain pupils.

22. Whenever any pupil shall leave any of the high schools without having completed the prescribed term and course of instruction, then, and in such cases, said commissioners shall have power to confer such testimonials on said pupils as said commissioners may deem to be proper and appropriate to the occasion.

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[1] Ord. No. 84, Oct. 9, '66, enacts: That the name of the Male Central High School of this city be and the same is hereby changed to that of Baltimore City College.

FLOATING SCHOOL.

23. The commissioners of public schools are hereby authorized and empowered, whenever in their judgment they shall deem it expedient, to organize and put in operation a public school of such grade, as to the said commissioners may seem advisable, on board of any ship or other vessel that may, for the time being, be used by the board of trade of Baltimore as a nautical school. Ibid, s. 23. To be organized.

24. The school so organized and put in operation, shall be subject (as far as they are applicable) to all the rules and regulations governing the other public schools of Baltimore; and the commissioners of public schools shall have full power and authority, from time to time, to adopt and enforce, in and about, and concerning the said school, all necessary and proper regulations calculated to insure the literary education of the pupils. Ibid, s. 24. How controlled.

25. All that part of the studies of the aforesaid school, to which the two preceding sections shall be deemed to apply, and with which the commissioners of public schools shall have any connection, shall be the literary branches, such as shall be taught in the public schools of the city; and the basis of the relations of the commissioners of public schools to the said school, shall be taken to be defined by the following memorandum, made between a committee of the board of trade and the board of commissioners of public schools:—"It was agreed, that in the establishment of the proposed school, the school commissioners should furnish teachers, and the same course of instruction, so far as would be applicable, as are now employed in our schools—with desks, seats and all necessary books and stationery, and should devote themselves to the same care and supervision that they now give to the public schools; and on the part of the board of trade, and the citizens generally, whose assistance it will invoke, it was proposed that the vessel to be used for the purpose of the school should be provided with the person to take charge of Ibid, s. 25. Studies. Agreement with board of trade as to ship, apparatus, &c.

the same, and all necessary rigging, tackle, &c.; also, whatever nautical apparatus is required, and adequate teachers to instruct the boys in all that relates to seamanship."

Ibid, s. 26. How to be designated.

26. The school herein provided for shall be designated and known as the "floating public school of Baltimore," and the commissioners of public schools shall have authority to present to the deserving pupils of the same, any diploma or other suitable reward of merit, that may to the said commissioners appear just and proper.

Ibid, s. 27. Permission to board of trade to select two commissioners.

27. The board of trade, if they deem it necessary, are hereby permitted, annually, in the month of February in each and every year, to select from their own body, two persons, to be known as commissioners of the floating school, who shall have authority to participate with the commissioners of the public schools in the management of the nautical department of said floating school.

Ibid, s. 28. City's right to discontinue.

28. Nothing herein contained, nor any act of the board of commissioners of public schools in the premises, shall be taken or construed to divest the mayor and city council of the right to discontinue the said floating public school at their option.

SCHOOLS FOR COLORED CHILDREN.

No. 35, s. 1, May 5, '68. Organized.

29. It is hereby made the duty of the board of public school commissioners of the city of Baltimore, to organize separate schools for colored children,[1] and to establish as many schools for the education of the colored children of Baltimore city as may, in the judgment of said board, be necessary.

Ibid, s. 2. Rules and regulations.

30. The schools to be established in accordance with the provisions of this ordinance, shall be subject to such rules

[1] Separate schools for the education of colored children were authorized to be established by the board of school commissioners, under ordinance No. 45, July 10, 1867.

and regulations as may be prescribed by the said board in its discretion.

31. All taxes paid by colored persons in the city of Baltimore for educational purposes, shall be placed to the credit of the schools for colored children in the accounts of the city register.[2]

Ibid, s. 3. Taxes paid by colored persons

LIBRARIES.

32. There shall be established at the Baltimore city college and at each of the two female high schools, a library for their use, without charge, under such regulations as may be adopted by the board of public school commissioners.

No. 40, s. 1, May 15, '63. Libraries to be established.

33. The selection of the books, which shall be only of an instructive and moral character, shall be made by the said commissioners, or a committee appointed by them for the purpose, and no book deemed by them to be injurious to the morals of the pupils, or of a sectarian character, whether obtained by purchase or donation, shall be admitted in said libraries, and all books purchased under any future ordinance or resolution of the city council or otherwise, for this purpose, shall be subject to the restrictions herein contained.

Ibid, s. 2. Selection of books.

PEABODY PRIZES.

34. The commissioners of public schools are hereby authorized to accept and receive the premiums proposed to be given by George Peabody, an American citizen, and a resident of London, to the Baltimore city college and the female high schools, as specified in his letter to his trustees for that

No. 24, May 26, '58; No. 84, Oct. 9, '66. Commissioners authorized to receive Peabody premiums.

[2] 1868, c. 407, title II. c. 9, is as follows: The total amount of taxes paid for school purposes by the colored people of any county, or in the city of Baltimore, together with any donations that may be made for the purpose, shall be set aside for the maintaining the schools for colored children, which schools shall be conducted under the direction of the board of county school commissioners, or the board of commissioners of public schools of the city of Baltimore, and shall be subject to such rules and regulations as said respective boards shall prescribe.

To distribute the same.

purpose, and to have the same distributed from time to time in such a manner as they shall deem most conducive to the benefit of the schools and the objects of the donor.[1]

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[1] Mr. Peabody, in his first letter to his trustees, dated Baltimore, Feb. 12, 1857, (as set forth in the act of 1858, c. 209, incorporating the Peabody Institute,) says: "I desire that the trustees, in order to encourage and reward merit, should adopt a regulation by which a number of the graduates of the public high schools of the city, not exceeding fifty of each sex in each year, who shall have obtained by their proficiency in their studies and their good behavior certificates of merit from the commissioners or superintending authorities of the schools to which they may be attached, may, by virtue of said certificates, be entitled as an honorary mark of distinction to free admission to the lectures [at Peabody Institute] for one term or season after obtaining the certificates. I also desire, that for the same purpose of encouraging merit, the trustees shall make suitable provision for an annual grant of twelve hundred dollars; of which five hundred shall be distributed every year in money prizes, graduated according to merit, of sums of not less than fifty dollars, nor more than one hundred for each prize, to be given to such graduates of the public male high school now existing or which may hereafter be established, as shall in each year, upon examination and certificate of the school commissioners or other persons having the chief superintendence of the same, be adjudged most worthy from their fidelity to their studies, their attainments, their moral deportment, their personal habits of cleanliness, and propriety of manners; the sum of two hundred dollars to be appropriated to the purchase, in every year, of gold medals of two degrees, of which ten shall be of the value of ten dollars each, and twenty of the value of five dollars each, to be annually distributed to the most meritorious of the graduating classes of the public female high schools; these prizes to be adjudged for the same merit, and under the like regulations, as the prizes to be given to the graduates of the male high school; the remaining five hundred dollars to be in like manner distributed in money prizes, as provided above for the graduates of the male high school in the same amounts respectively, to the yearly graduates in the school of design attached to the Mechanics' Institute of this city. To render this annual distribution of prizes effective to the end I have in view, I desire that the trustees shall digest, propose and adopt all such rules and provisions, and procure the correspondent regulations on the part of the public institutions referred to, as they may deem necessary to accomplish the object."

ARTICLE XL.

SEWERS.

STATUTES.

1. Mayor, &c. to pave and keep in repair.
2. Penalty for obstructing.
3. Constructing, enlarging, &c. sewers: powers of mayor and council.
4. Benefits assessed: a lien.
5. Passage of ordinance: notice to be given.
6. Commissioners: notice to be given of object of ordinance.
7. Tax: sinking fund.

ORDINANCES.

1. Commissioners for opening streets and city commissioner, board.
2. Oath of commissioners.
3. Oath to be recorded and certified to.
4. Clerk: proceedings to be recorded: city solicitor: city surveyor: compensation: oath of clerk, &c.
5. Benefits derived: injuries sustained: assignment to register or collector.
6. Constructing, opening, &c. sewers: notice: meeting of commissioners: damages: award: assessment of ground.
7. When part of house or lot taken, &c.: five per cent. stock: notice: public auction: bond of purchaser: when commissioners to re-sell.
8. Statement of damages: description: notice: commissioners to review: to make corrections: register to notify.
9. Right of appeal to Baltimore City Court: subpœna duces tecum to register: record of proceedings of board: examination of witnesses: jury: decisions to be entered on record of proceedings: evidence: costs.
10. Duty of collector.
11. When collector to sell property: notice.
12. Under what conditions property sold: when collector to re-sell.
13. Deed from collector: purchase money.
14. Assessments, liens: consent in writing: damages paid or invested.
15. Persons not claiming title may pay amount assessed: certificate.
16. When commissioners interested, temporary appointment by mayor.
17. Time limited: proviso: report to mayor and council.
18. When work to be closed.
19. Unexpired term of years in lot.
20. Obstructions: suit for expenses.
21. Per diem to commissioners and clerks.
22. Papers and books to be deposited with register.
23. Survey of route of sewer.
24. Advertisement for proposals.
25. Contractors to give bond.
26. Penalty for obstructing sewers.
27. Sewers not to be tapped or opened: penalty.
28. Private sewers: permission to construct: penalty.
29. Payment: penalty.

STATUTES.

P. L. L. art. 4, sec. 835. Mayor, &c., to have and keep in repair.

1. The mayor and city council have full power to pave and keep in repair all necessary drains and sewers, to pass all regulations necessary for the preservation of the same, and to authorize any person by them appointed for that purpose to enter upon the lots, grounds, and possessions of any person or body politic through which the common sewers run, or ought to run, to regulate, make or repair the same.

Ibid, sec. 836. Penalty for obstructing.

2. If any person shall wilfully stop up or obstruct the passage of the waters of any of the common sewers, he shall forfeit and pay the sum of one hundred dollars.

1868, c, 181, s. 1. Constructing, enlarging, &c., sewers. Powers of mayor and council.

3. The mayor and city council of Baltimore shall have full power to provide for constructing, opening, enlarging or straightening any sewer through any street, lane or alley, or through any private property, upon giving thirty days notice in writing to the owners or agents of said private property within the bounds of the city, when in their opinion the convenience or welfare of the city may require it, to provide for ascertaining whether any and what amount of actual damage will accrue thereby, and what amount of actual benefit will thereby accrue to the owner or possessor of any ground or improvements within or adjoining to the city, being governed as far as practicable by the number of superficial feet drained, and to provide for assessing and levying either generally on the whole assessable property of the said city, or by a loan for the special purpose for constructing, opening, enlarging or straightening any sewer, the sum necessary to pay the expense or cost, or specially on the property of persons actually benefitted, the whole or any part of the damages and expenses which they shall ascertain will be incurred in constructing, opening, enlarging or straightening any sewer in any street, lane or alley, or through any private property in said city, to provide for granting appeals to the court or courts having jurisdiction thereof in Baltimore city, from the decision of any commissioners or other persons appointed in virtue

of any ordinance to ascertain the damage which will be incurred or the benefits which will accrue to the owners or possessors of any ground or improvements for constructing, opening, enlarging or straightening in any street, lane or alley, or through any private property, any sewer which in their opinion the public welfare or convenience may require, and for securing to every such owner or possessor the right on application within a reasonable time to have decided by a jury trial, whether any damage and what amount of damage has been caused, or whether any benefit, and what amount of benefit has accrued to them; and to provide for collecting and paying over the amount of compensation adjudged to each person to receive the same, or investing in stock of said corporation bearing interest of five per centum per annum for the use of any person who because of infancy, absence from the city, or other cause, may be prevented from receiving it before any sewer shall be constructed, opened, enlarged or straightened in any street, lane or alley, or through any private property, and to enact and pass all ordinances from time to time which shall be deemed necessary and proper to exercise the power and effect the objects herein specified.

Ibid, s. 2. Benefits assessed, a lien.

4. The amount of benefit assessed on any property for constructing, opening, enlarging or straightening any sewer in any street, lane or alley, or through any private property constructed, opened, enlarged or straightened by virtue of any ordinance passed by the mayor and city council of Baltimore, shall be a lien on the property and recoverable as city taxes are.

Ibid, s. 3. Passage of ordinance. Notice to be given.

5. Before the mayor and city council of Baltimore shall pass any ordinance under section three, notice shall be given of an application for the passage of such an ordinance in at least two of the daily newspapers of said city twice a week for sixty days.

Ibid, s. 4. Commissioners

6. Before any commissioners appointed by any ordinance of said corporation under the preceding sections hereof, shall

proceed to the performance of their duty, they shall give daily notice in at least two newspapers in the city of Baltimore of the object of the ordinance under which they propose to act, at least thirty days before the time of the first meeting to execute the same.

Notice to be given of object of ordinance.

Ibid, s. 5. Tax.

7. Should the commissioners appointed by the mayor and city council of Baltimore to levy any part of the expense and damage incurred in the construction, opening, enlarging or straightening any sewer in the city, the said mayor and city council may levy a tax on the assessable property of the city for the amount of such assessment, or they may raise the necessary amount by a loan, for the payment of which they may create a sinking fund to meet the liabilities incurred, and may also levy on the assessable property of the city of Baltimore from time to time such sums as may be necessary to provide therefor, and for the principal and interest of the liabilities incurred, and may pass all ordinances necessary to carry out the provisions of the same.

Sinking fund.

ORDINANCES.

No. 52, s. 1, May 7, '68. Commissioners for opening streets and city commissioner, board.

1. The commissioners for opening streets, together with the city commissioner, are hereby constituted a board to carry into effect the provisions of this ordinance.

Ibid, s. 2. Oath of commissioners.

2. In each and every case, before the commissioners shall proceed to act as a board in the exercise of the powers confided to them by this or any future ordinance, they shall severally take and subscribe the following oath or affirmation before some justice of the peace: "I, A. B., do swear, or solemnly, sincerely and truly declare and affirm, that I will to the best of my judgment, knowledge and ability, faithfully, impartially and diligently execute the duties of a commissioner for the construction of sewers in the city of Baltimore, according to the ordinance to provide for exercising certain powers vested in this corporation in relation to the construction of sewers in the city of Baltimore.

3. The said oath or affirmation shall be recorded in a book to be provided by the said commissioners for the recording of their proceedings, and the justice in whose presence the said oath or affirmation shall be made and subscribed, shall certify thereto under his hand in the same book. Ibid, s. 3. Oath to be recorded and certified to.

4. The clerk to the commissioners for opening streets shall keep a full and true record of all their proceedings in a book provided as aforesaid, under the direction and supervision of the city solicitor, and in such form as he may prescribe; and the said clerk shall record all orders made by the said commissioners in regard to the performance of their duties, and make true copies of all notices by them directed to be published, and the certificate of the publication thereof; and shall perform such other necessary duties as the said commissioners shall require; and the said commissioners shall also have the power to obtain the services of the city surveyor and such other assistants and agents as they may deem necessary, in the exercise of their powers, and allow to the clerk and each of the persons so employed by them, such compensation as may be fixed by ordinance, and if not so fixed, as the said commissioners may deem reasonable, and assess the said compensation and all other necessary; charges and the clerk and other persons to be so employed, shall severally take and subscribe an oath or affirmation similar in substance to that required to be taken and subscribed by the commissioners, which shall be in like manner entered in the record of the proceedings of the said commissioners. Clerk. Proceedings to be recorded. City solicitor. Duties of clerk. City surveyor. Compensation. Oath of clerk, &c.

5. When the said commissioners shall assess a sum of money to be paid by any person or persons for benefits derived by such person or persons, by constructing, opening, enlarging or straightening any sewer, and shall assess a sum of money to be paid to the same persons for injury sustained by constructing, opening, enlarging or straightening any sewer, it shall and may be lawful, upon a certificate of title from the city solicitor, for the register or collector to receive Ibid, s. 5. Benefits derived Injuries sustained.

Assignments to register or collector.

from such person or persons, an assignment for the sum or sums so assessed as damages as aforesaid.

Ibid, s. 6. Constructing, opening, &c., sewers.

6. Whenever the mayor and city council of Baltimore shall hereafter by ordinance direct the commissioners for opening streets and sewers to construct, open, enlarge or straighten any sewer within the bounds of this city, the said commissioners shall give at least thirty days' notice, in at least two of the daily newspapers of the city, and also thirty days' notice, in writing, to the owners or agents of any private property through which any sewer may be intended to pass, of the object of the ordinance under which they are about to act, and of the day, hour and place of their first meeting under the said ordinance; and the said commissioners shall meet at the time and place mentioned in the notice given by them, and proceed to exercise the power and perform the duty assigned to and required of them, under and by virtue of this ordinance, and ascertain whether any and what amount in value of damage will thereby be caused to the owner of any right or interest claimed in any ground or improvements within or adjacent to the said city, over and above the amount in value of benefit which will thereby accrue to such owner, for which, taking into consideration all advantages and disadvantages, such owner ought to be compensated; and in addition thereto, shall award to the occupant or occupants of any lot of ground, or of any improvement that may be removed, such damages, if any, as the commissioners, or a majority of them, may believe such party or parties have sustained by such removal; and the said commissioners, after having ascertained the whole amount of damages as aforesaid, and after having added thereto an estimate made by them of the probable amount of expenses which will be incurred in the performance of the duties required of them as aforesaid, and also the expense incurred by the register under the provisions of this ordinance, shall proceed to assess all the ground and improvements within and adjacent to the city, the owners of which, as such, the said commissioners

Notice.

Meeting of commissioners.

Damages.

Award.

Assessment of ground.

shall decide and deem to be directly benefitted by accomplishing the object authorized in the ordinance aforesaid, being governed as far as practicable by the number of superficial feet drained; and should the direct benefits assessed as aforesaid not be equal to the damage and expenses incurred, the balance of said expenses and damages shall be paid by the city register, and be taken out of the general levy—subject, nevertheless, to all such restrictions exempting certain descriptions of property from assessment, as are contained in any law of the State, or in this ordinance, or in any other ordinance of the city.

Ibid, s. 7. When part of house or lot taken, &c.

7. In every case where it shall be necessary in order to effect the object proposed that a part only of a house and lot, or of a lot, shall be taken and used or destroyed, and the owner or owners thereof shall claim to be compensated for the whole, the said commissioners shall ascertain the full value thereof, 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 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

Five per cent. stock.

Notice.

Public auction.

and acknowledged by them in the form and manner required by law for conveying the title of lands in this State, convey any ground by them so sold to the purchaser thereof; and such sale shall be made before the commissioners shall proceed to assess the amount of damages and expenses to be assessed as directed by this ordinance, and the said commissioners are duly empowered to take and receive a bond of the purchaser of the property or materials aforesaid, with a penalty to the mayor and city council of Baltimore, that the price for which the same was sold shall be duly paid at such time as they, the said commissioners, are prepared to deliver possession of said property and materials, and that the said purchaser shall remove within sixty days thereafter such materials so sold and all rubbish or other obstructions occasioned thereby; and in the event of the 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.

Bond of purchaser.

When commissioners to re-sell.

Ibid, s. 8. Statement of damages.

8. As soon as the commissioners aforesaid shall have completed the valuation of damages ascertained by them as directed by the sixth section of this ordinance, they shall cause a statement thereof to be made out and placed in the office of the city register for the inspection of all persons desiring information of its contents, and such statement, together with an explanatory map or maps, shall contain a correct description of each separate lot or parcel of ground deemed to have sustained damages, its length and breadth, the name of any street, square, lane or alley on which it bounds; the names of all persons who shall claim any estate or interest in it, and the amount of damages as valued by the commissioners; and if there be any house or other improvement on it necessary to be removed in whole or part, a description of the size and such other particulars as the commissioners shall deem proper, and in like manner a description

Description.

of each parcel of ground deemed by the commissioners to be benefitted, the name or names of such person or persons as shall claim any estate or interest therein and the amount assessed thereon for benefits; and the commissioners shall cause a notice to be published four successive days in three daily newspapers of the city, stating the extent of the ground covered by the assessment, and that such statement and map or maps have been so deposited with the register for examination, and that the commissioners will meet at the office of the commissioners for opening streets and sewers on a day in such notice to be named, which shall be within ten days after the first publication of such notice, to review any of the several matters set forth in the said statement, to which any person claiming to be interested therein shall, on that day so appointed, make objection; and the commissioners shall meet at the time and place so appointed and consider all such representations and testimony on oath or affirmation, verbal or in writing, in relation to any matter in said statement which shall be offered to them on behalf of any person claiming to be interested therein; and the said commissioners shall make all such corrections and alterations in the valuations, assessments and estimates, and all other matters contained in the said statements and explanatory map or maps aforesaid, as in their judgment shall appear to them, or a majority of them, to be just and proper; and they may adjourn from day to day, if necessary, to give all parties claiming a review an opportunity to be heard, not exceeding in the whole ten days; and after closing such review the commissioners shall make all such corrections in their statement and explanatory map or maps as they shall deem proper, and cause such statement and map or maps so corrected and certified under the hands and seals of said commissioners and their clerk, to be deposited in the office of the register as one of the records of the city; and it shall be the duty of the register within five days after said proceedings shall have been deposited in his office, to notify all persons interested by an advertisement to be inserted once a week for four successive weeks in three of

Notice.

Commissioners to review.

To make corrections.

Register to notify.

the daily newspapers of the city, that the said assessment and maps have been so placed in his office, and that the parties interested therein are entitled to appeal therefrom by petition in writing to the Baltimore City Court.

Ibid, s. 9. Right of appeal to City Court.

9. Any person or persons, or corporations who may be dissatisfied with the assessment of damages or benefits as hereinbefore provided, may, within thirty days after the return of corrected statement and map or maps to the register, as provided in the eight section of this ordinance, and the first publication of the notice thereof by the register, appeal therefrom by petition in writing to the Baltimore City Court, praying the said court to review the same, and on any such appeal the court may and shall appoint a day for hearing said appeal, which shall not be less than five or more than thirty days after the expiration of the thirty days limited for taking appeals as aforesaid, and shall direct the clerk of the said court, to issue a *subpœna duces tecum* to the register of the city, requiring him to produce and deliver to said court the record of the proceedings of the board of commissioners in the case, and all maps, plats, documents and papers, connected with such record; and the said Baltimore City Court shall have full power to hear and fully examine the subject and decide on the said appeal, and for that purpose is hereby authorized and empowered to adjourn from time to time, and may cause all such appeals to be consolidated, or may hear and decide them separately, and may require the said commissioners, their clerks, surveyor or other agents and servants, or any of them, and all such other persons as the court shall deem necessary to attend, and examine them on oath or affirmation, and may permit and require all such explanations, amendments and additions to be made to, and of the said record of the proceedings as the said court shall deem requisite; and the persons appealing to the Baltimore City Court as aforesaid, shall be secured in the right of a jury trial, and the said court shall direct the sheriff of Baltimore city to summon twelve or more persons qualified to be jurors, and

Subpœna duces tecum to register.

Record of proceedings of board.

Examination of witnesses.

Jury.

shall empannel any twelve disinterested persons so summoned or attending the court, to try any question of facts, and if necessary, to view any property in the city or adjacent thereto, to ascertain and decide on the amount of damages or benefits under the direction of the court; and the said court shall not reject or set aside the record of the proceedings of the said commissioners for any defect or omission in either form or substance, but shall amend or supply all such defects and omissions, and increase or reduce the amount of damages and benefits assessed, and alter, modify and correct the said return of proceedings in all or any of its parts, as the said court shall deem just and proper, and shall cause the proceedings and decisions on said returns and appeals to be entered in the book containing the record of the proceedings of the commissioners, certified by the clerk under the seal of the court, and the book to be transmitted to the register of the city, which shall be final and conclusive in every respect, unless an appeal be taken to the Court of Appeals, and such records, book or copy of the proceedings therein, or any part of such proceedings, whether in court or out of court, certified by the register of the city, under the corporate seal of the city, shall be evidence in any court in this State; and the judge of the Baltimore City Court shall have full power, in his discretion, to add the reasonable costs of any appeal, to be taxed by him, or any part thereof, to the damages to be collected for constructing, opening, enlarging or straightening any sewer, or to require such cost, or any part thereof, to be paid by all, or by either of the appellants, as the circumstances of each appeal in his opinion shall justify.

Decisions to be entered in record of proceedings.

Evidence.

10. If no appeal shall have been prayed within ten days after the time hereinbefore limited therefor, or after the return of the decision upon any appeal shall have been made to the register, the said register shall transfer the said commissioners' return to the collector, who shall proceed forthwith to notify the parties assessed for benefits, by means of bills specifying the several sums so assessed, and warning

Ibid, s. 10.

Duty of collector.

them that if the same be not paid within six months from the date of such transfer of said commissioners' returns, he will proceed to sell the specific piece or parts of property on which such unpaid sum or sums of money shall have been assessed, in the manner, and after having given the notice directed by the eleventh section of the ordinance.

Ibid, s. 11. When collector to sell property.

11. If the sums assessed upon the property benefitted shall not be paid within the time above limited, the collector is hereby authorized and directed to sell the property, or any part thereof, on which such assessment has been laid, giving not less than thirty days nor more than sixty days' notice of said sale, in two of the daily newspapers published in the city of Baltimore; said notice to be published within ten days after the expiration of the time limited in the tenth section for the payments of said benefits, and the moneys so collected by the collector, shall be paid over by him to the mayor and city council of Baltimore, as other moneys are directed to be paid over, and by them to the persons entitled to receive the same.

Notice.

Ibid, s. 12. Under what conditions property sold.

12. In all cases in which the city collector shall sell any property on account of the non-payment of assessments made for the constructing, opening, enlarging or straightening of any sewer, it shall be his duty to sell said property to the extent and subject to the same conditions which are provided by ordinance for the sale of real estate in the city of Baltimore, charged with the payment of other taxes imposed by this corporation; and in the event of the purchaser or purchasers failing forthwith to comply with the terms of said sale, the collector shall re-sell the same at the risk of the former purchaser, giving not less than ten days' notice in two of the daily newspapers of the city aforesaid; and after collecting the benefit assessments, he shall forthwith return the said commissioners' proceedings to the city comptroller.

When collector to re-sell.

Ibid, s. 13. Deed from collector.

13. The collector, on receiving the full amount of the purchase money on such sale, shall execute a deed of conveyance

in favor of the purchaser or purchasers, or their assigns or assignees, which deed shall convey a fee simple or leasehold estate, as the case may be, in and to such property; and after deducting the costs of sales, advertising and other necessary expenses, he shall pay the balance of such purchase money to the mayor and city council of Baltimore, who shall pay over the said balance, after deducting the amount assessed on said property, to the person or persons entitled thereto, on demand, without interest.

Purchase money.

14. All sums of money assessed by the commissioners aforesaid upon property deemed by them to be benefitted, shall be and continue liens on each several piece of property so assessed to the amount of its particular assessment, until the same shall be paid to the city; but no sewer shall be constructed, opened, enlarged or straightened on or under the ground of any person or persons, or corporations adjudged by the commissioners to be entitled to damages for said opening and so forth, without the consent in writing of the person or corporation so entitled, until such damages shall be paid, or the amount thereof invested in the city five per cent. stock for the use of each person or corporation entitled to any part of the compensation for such damages to the amount of his, her or their respective right and interest therein, of which investment the register's certificate under the corporate seal of the city shall be competent proof.

Ibid, s. 14.
Assessments, liens.
Consent in writing.
Damages paid or invested.

15. Any person or persons not claiming title to any lot or piece of property upon which any sums shall be assessed as aforesaid, may pay the amount of the sum so assessed within the time limited to the register of the city and obtain his certificate of having paid such sum, without claiming title to the property, and such payments shall vest in the person or persons paying his, her or their heirs the lien on such lot or property mentioned in the fourteenth section of this ordinance.

Ibid, s. 15.
Persons not claiming title may pay the amount assessed.
Certificate.

16. If it should so happen that any one or more of said commissioners should be interested in any particular case,

Ibid, s. 16.
When commissioners interested.

Temporary appointment by mayor.

the mayor shall make a temporary appointment of a commissioner or commissioners to act in the place and stead of such interested commissioner or commissioners, who shall take the oath or affirmation, as the case may be, and in all respects conduct himself as the commissioners who are annually appointed.

Ibid, s. 17. Time limited.

17. In case the said commissioners shall commence any proceedings by virtue of this or any future ordinance, they shall be allowed not exceeding ninety days to complete the same; provided, should said commissioners ascertain it to be impracticable so to complete the said proceedings they shall make to the mayor or city council a full and explicit report of the cause and causes of such inability, together with all such other matters connected therewith as the mayor or city council may from time to time require, and shall suspend all further proceedings until otherwise directed.

Proviso.

Report to mayor and council.

Ibid, s. 18. When work to be closed.

18. The said commissioners for opening streets and sewers shall proceed to close all their work, notwithstanding they may not be re-appointed, within six months from and after the expiration of the time for which they were appointed by virtue of the first section of this ordinance.

Ibid, s. 19. Unexpired term of years in lot.

19. Whenever any lot or part of a lot, or parcel of ground, may be taken for the purpose of constructing, opening, enlarging or straightening any sewer, and damages assessed therefor, and there shall be an outstanding unexpired term of years therein, the said commissioners shall discriminate in their proceedings between the value of fee simple or ground rent interest and the leasehold interest.

Ibid, s. 20. Obstructions.

20. Whenever any obstruction shall have remained in the way of any sewer so to be opened, enlarged or straightened, for the space of sixty days after the proceedings of the said commissioners shall have been returned to the register of the city, it shall be the duty of said commissioners to cause the same to be removed, and to draw on the register for the

expenses so incurred, which shall be paid by him; and the mayor shall forthwith cause a suit for the recovery of said expenses, to be instituted against the person or persons by whose default the said obstruction has been suffered to remain, and the same, when recovered, shall be paid to the register for the use of the city.

Suit for expenses.

21. In each case of constructing, enlarging or straightening any sewer, under the provisions of this ordinance, the said commissioners shall, for each and every day in which they and their clerk shall be actually engaged in the performance of their duties, assess as part of the expenses of their proceedings, a per diem as to each of said commissioners and their clerks, of four dollars, to be collected as other expenses are, and to be paid to the register for the use of the city.

Ibid, s. 21. Per diem to commissioners and clerks.

22. The commissioners for opening streets and sewers, so soon as they shall have completed their work on each sewer, shall deposit all papers and books relating thereto, in the office of the city register.

Ibid, s. 22. Papers and books to be deposited with register.

23. When the mayor and city council shall pass an ordinance for the opening, constructing, enlarging or straightening of any sewer within the limits of the city, the city commissioner is hereby authorized and required to have surveyed the route of said sewer, and to determine the size the same shall be, and to take charge of and superintend the work of such opening, constructing, enlarging or straightening.

Ibid, s. 23. Survey of route of sewer.

24. When it shall have been determined to open, construct, enlarge or straighten any sewer, under the provisions of this ordinance, and when the assessments and survey aforesaid shall have been made, the said city commissioner shall advertise for thirty days in at least two of the daily newspapers of the city, for proposals for the opening, constructing, etc., of such sewer, according to plans and specifications to be prepared by said city commissioner; and the said city commissioner shall award the contract for such opening, constructing, etc., to the lowest responsible bidder.

Ibid, s. 24. Advertisement for proposals.

Ibid, s. 25. Contractors to give bond.

25. Before any contract shall be executed under the provisions of the preceding section, the contractor or contractors shall enter into bonds with good and sufficient security, to be approved by the mayor and comptroller in double the amount of the contract price, conditioned for the faithful and efficient performance of the work contracted for.[1]

No. 18, s. 36, R. O. Penalty for obstructing sewers.

26. If any person shall wilfully stop or obstruct the passage of the water of any sewer, made or which may hereafter be made, he, she or they so offending shall forfeit and pay the sum of one hundred dollars for each and every such offence.

Ibid s. 37. Sewers not to be tapped or opened.

27. If any person or persons, owner or owners, occupier or occupiers of any lot within the city of Baltimore shall tap or open, or cause to be tapped or opened, any of the public sewers in the city, without first obtaining the permission of the city commissioner and the approval of the mayor, said person or persons, owner or owners, occupier or occupiers, shall forfeit and pay the sum of twenty dollars for each and every such offence; and it shall be the duty of the city commissioner to cause a notice to be served upon such person or persons, owner or owners, occupier or occupiers, directing any of said sewers to be closed when they have been tapped or opened, in the manner prescribed by said notice, and if such

Penalty.

Duty of city commissioner.

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[1] Under No. 69, July 9, '68, the commissioners for opening streets with the city commissioner, are authorized, under provisions of above ordinance No. 52, to construct a sewer of the diameter of three feet and six inches, from the intersection of Howard and Lexington streets to the intersection of Liberty and Baltimore streets by way of Lexington, Park and Liberty streets, and shall construct a sewer of the diameter of five feet and six inches from the said intersection of Liberty and Baltimore streets to the foot of Camden street at Light street via Liberty, Howard and Camden streets, and shall have constructed at the terminus of said sewer such catch basin as shall be advised and approved of by the city commissioner, and shall have constructed at such places he may direct, all the traps of the most approved plan, and such inlets as may be necessary to convey the water from the surface to said sewer, and all such work as may be necessary to complete said sewer in the most approved manner. It further provides, that any person or persons, or body corporate, who may be dissatisfied with the assessment of damages or benefits which shall be made by said commissioners, may appeal to the Baltimore City Court at the time, in the manner and after like notice, by the register, as provided for in the above ordinance No. 52.

person or persons, owner or owners, occupier or occupiers, shall refuse or neglect to comply therewith, he, she or they so refusing or neglecting, shall forfeit and pay the further sum of five dollars for each and every day he, she or they shall continue to refuse or neglect to comply therewith, and shall moreover pay the expenses incurred in case such sewer shall be closed under the direction of the city commissioner, which said commissioner is hereby authorized to have done in case of said neglect or refusal.

No. 52, April 22, '64. Private sewers. Permission to construct. Penalty.

28. It shall not be lawful for any person or persons to construct within the limits of direct taxation a private sewer, under the streets, lanes or alleys that are paved, without having had and obtained the written permission of the city commissioner, approved by the mayor, under a penalty of twenty dollars, and ten dollars for each and every day the same shall remain, and every application for such permission to erect such sewer shall be in writing, signed by the person or persons making the same, and shall name the length desired.

Payment. Penalty.

29. After obtaining permission to construct or make such sewer, and previous to the commencement thereof, the person or persons so applying shall therewith pay to the register of the city the sum of twenty cents for each lineal foot of ground mentioned as required for such sewer, under a penalty of twenty dollars for each and every commencement of such sewer without the payment of the sum herein required.[1]

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[1] CANTON COMPANY.—Ordinance No. 12, March 17, 1836, entitled an ordinance to authorize the Canton Company of Baltimore to construct certain sewers and reservoirs, and for other purposes, enacts:

1. That the city commissioner be and he is hereby instructed to lay off, in front of the land belonging to the Canton Company of Baltimore, and establish by metes and bounds two reservoirs or places of deposit for earth, rubbish and sediment washed from the streets; said reservoirs not to exceed four hundred feet in length, extending southwardly at right angles with the parallel of Boston street outside the port warden's line, and sixty feet in width between the line of the east side of Leakin street and the line of the west side of Burke street; and

the location of said reservoirs and the plan of their construction, before being finally adopted by the city commissioner, shall be submitted to the mayor, with a map representing the said location in connection with the adjacent streets, and when approved by him, shall be filed and recorded in the office of the register of the city; provided, that before the said Canton Company shall proceed to construct said reservoirs, they shall file in the office of the city commissioner the assent, in writing, of all such wharf or property holders on Fell's Point as the mayor shall decide to be liable to injury therefrom; and provided, also, that said reservoirs and all the sewers and other improvements or works required or granted to be made by said Canton Company in this ordinance, shall be done under the superintendence of the city commissioner.

2. That the said Canton Company of Baltimore shall be and they are hereby authorized and empowered to build and construct the reservoirs mentioned in the preceding section, on the conditions therein stated; and all such drains and sewers under ground as may be deemed by the city commissioner necessary and proper to carry off the wash and waste water from Washington, Aliceanna and other streets, and to prevent injury to the said streets or harbor; all which structures, works and improvements shall be made and completed at the sole cost and expense of said Canton Company, and the reservoirs when covered and completed, may be used as wharves by the Canton Company aforesaid, for any purpose which shall not conflict with the laws of the State, or the ordinances of the city of Baltimore.

3. That the city commissioner be and he is hereby required to lay off a new port warden's line on the south side of Aliceanna street, beyond which it shall not be lawful to extend any wharf or other building, beginning for the same at the northeast corner of James Frazier's wharf, and thence running eastwardly about five hundred and thirty-seven feet, until it intersects that part of the port warden's line which runs parallel to Boston street, at a point found by a line drawn southwardly at right angles to Boston street, from a point twenty feet eastwardly from the intersection of Boston and Aliceanna streets; and the said commissioner shall return a map or plat of such alteration to the office of the register of the city.

4. That the mayor be and he is hereby authorized and directed to lease to the Canton Company of Baltimore, in the name and on behalf of the city of Baltimore, all that part of a lot of ground situated at the southwardly extremity of Washington street, Fell's Point, being part of the lot which was purchased by the city from William Dawson and ——— Lawrence, which lies eastwardly of Washington street, if continued and bounded as follows: southwardly, on the land of James Frazier, eastwardly by the port warden's line, northwardly, by the land of the Canton Company, and westwardly by a line with the eastern side of said Washington street, together with a right to said Canton Company to open and construct such drains and sewers through that part of said lot owned by the city, which lies at the present southern termination of said Washington street, as may be suitable and proper to carry off all wash and waste water from Washington or Aliceanna streets. The consideration of said lease to be a rent of one cent per annum, if demanded, and the payment by said Canton Company to the register of the sum of eight hundred and fifty dollars, on the execution and delivery of the lease; and the city commissioner is enjoined to stay all proceedings under this ordinance, until the provisions of this section shall have been complied with.

5. That the said Canton Company shall construct a good and substantial wharf, commencing for the same at the southwest corner of the city wharf as already begun, and running eastwardly with the port warden's line directed to be laid down by the third section of this ordinance, until it intersects and unites with the wharf heretofore made by the Canton Company; and the said Canton Company shall proceed to fill up or cover over the cave which will be created by the construction of said wharf, as soon as practicable, so as to prevent offensive or unhealthy effluvia therefrom.

6. That the said Canton Company shall construct good and substantial sewers in Washington street, if judged necessary by the city commissioner, so as to carry off under ground the waste water and wash from said street, and prevent damage to said street and Aliceanna street.

7. That before constructing the piers hereinbefore mentioned, the said Canton Company shall give such guarantee as the mayor may require, that the present depth of water in the harbor, or any part thereof, shall not be lessened by means of said piers.

8. That in event of the adjacent wharves or harbor being obstructed or shoaled of their water, after the construction by the Canton Company of their works before mentioned, they or their agents, on complaint being made thereof, shall, without delay, at their exclusive charge and expense, have such obstruction removed, and the harbor or wharves injured put in the same condition as they were before such obstruction occurred—the same to be done under the direction of the city commissioner or port warden of Baltimore; and in case of neglect or refusal of said Canton Company or their agents, they shall for every day such obstruction remains in the harbor, or at such wharves, pay the sum of fifty dollars per day to every such person or persons so injured, the same to be recovered as other debts or fines are or may be recovered; provided, (this proviso being enacted by Ord. No. 43, June 1, 1836,) that nothing contained in the above provisions of this section shall be so construed as to render the Canton Company of Baltimore responsible for any injury or obstruction to the harbor or to any wharf, except such as shall be caused by or be a consequence of the construction of the piers, reservoirs and other works which the said company shall erect, make and perform by their agents or officers, or of the imperfect or injudicious construction of any works performed or undertaken by the said company, in virtue or under pretence of the permission granted by this ordinance.

The Canton Company of Baltimore was incorporated by the act of 1828, c. 159, the fourth and fifth sections of which act are as follows:

4. That the objects for which the Canton Company of Baltimore aforesaid are incorporated, and which the said company are hereby authorized to effect, are the improvement in such manner as shall be conformable to the laws of this State, and not contrary to or inconsistant with any of the rights or privileges of the corporation of the city of Baltimore, or of any citizen or citizens of this State or the United States, of any lands and appurtenances which shall belong to the said company, by laying out into lots, streets, squares, lanes, alleys and other divisions, any such lands within the vicinity of the city of Baltimore, or near to any navigable water, and erecting, constructing or making thereon all such wharves, ships, boats and other vessels, workshops, factories, warehouses, stores, dwellings and such other buildings and inprovements as may be found or deemed necessary, ornamental or convenient; and letting, renting, leasing, sell-

ing or granting on conditions, or using any lot or other portion of any of the said lands, for agricultural, mining or manufacturing purposes; or any wharf, house or other building or improvement, to be used by any mechanic, artizan or other person, whether in the employ of the said company or not, in carrying on any lawful trade, business or manufacture, authorized or permitted by the laws of this State; provided, that in laying off streets, squares, lanes, alleys or other divisions, no infringement be made on the plan of the city of Baltimore, as laid out by the commissioners under the act passed at December session, 1816, chapt. 209; and provided also, that the said company and its agents shall in all cases whatsoever, be subject to and observe the ordinances of the city of Baltimore, within the limits of said city.

5. That the directors of the said company shall be and they are hereby authorized, at any time hereafter, by and with the consent of the mayor and city council of Baltimore, to connect with the said city any of the streets, wharves and other improvements that shall be made by the said company, in such manner and on such terms as shall be mutually agreed upon by the said mayor and city council and the board of directors of the company hereby created. See further under Harbor, Docks and Wharves, p. 252, &c., *ante*.

ARTICLE XLI.

SQUARES AND MONUMENTS.

ORDINANCES.

MONUMENTS.

1. Penalty for defacing monuments.
2. Hacks in Monument square: proviso: penalty.

SQUARES AND SPRINGS.

3. Commissioners to public squares: powers and duties.
4. Keepers of springs and squares appointed: board of health to make regulations: penalty.
5. Register to pay for tools, &c.: proviso.
6. Salaries of keepers.

BATTERY SQUARE.

7. Preamble.
8. Ground for the Battery to be condemned: Name.
9. Duty of the commissioners.
10. Appropriation for damages.

EUTAW SQUARE.

11. Preamble.
12. Deed.
13. Name: iron railing: grading and paving of streets.
14. Houses on squares.

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16. Closing streets: width of square: plat.

FRANKLIN SQUARE.

17. Preamble: public square.
18. Deed: terms and conditions: description: footways: buildings to be erected.
19. Provision for paving.
20. Charge for paving.
21. Time limited for improving: ordinance may be repealed.
22. To be called Franklin square.
23. Woodyear alley and Vine street to be closed.
24. Contract.
25. Terms of sale of property to be submitted to mayor.
26. Certain streets closed.
27. Preamble.
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29. Deed.
30. Description of buildings: houses on north side of Lexington street.
31. Repeal; proviso.
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HAERLEM SQUARE.

33. Title to a square of ground: description: name of square.
34. Location of Adams street changed.
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38. Square to be purchased: location.
39. Grading and paving streets adjoining square.
40. Condemned for public use.
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43. Location of square.
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MOUNT VERNON PLACE.

47. Porticos, steps, &c., regulated.

PARK PLACE.

48. Preamble.
49. Closing Grundy street: proviso: name of square.
50. Iron railing: proviso.

PROSPECT SQUARE.

51. Square to be laid out, &c.: name: railing: provisos.

UNION SQUARE.

52. Preamble.
53. Deed: conditions: fountain: streets: railing.
54. Name: fountain.
55. Time limited.
56. Railing; houses near square.
57. Monument.
58. Improvements: proviso: expenditure.

ORDINANCES.

MONUMENTS.

1. If any person shall injure or deface the Washington or Battle monuments, their ornamental figures or sculpture, or the enclosure or railing around either of them, such person shall, for every such offence, forfeit and pay a sum not exceed- No. 60, R. O. Penalty for defacing monuments.

ing twenty dollars, and shall, moreover, be liable to pay all expenses in repairing the said injury or injuries.[1]

No. 30, June 10, '58. Hacks in Monument square, &c.

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

Proviso.

Penalty.

SQUARES AND SPRINGS.

No. 13, Mar. 5, '66. Commissioners to Public Squares.

3. The mayor shall have power to appoint at his discretion, and removable at his pleasure, three commissioners for each of the public squares of the city, to be selected from among the residents in the vicinity of the respective squares,

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1 The corner stone of the Washington monument was laid July 4, 1815, and the statue of Washington placed on the summit 28th Nov. 1829. The foundation stone of the Battle monument was laid Sept. 12, 1815, under act of 1815, c. 102, in memory of those who fell in defence of the city the year before.

By Ord. No. 6, Feb. 10, '65, it is enacted that for every year during their lives Mary Mozier, Ann Merriken, Rosina Hickey, Ellen McCubbin, Mary Ann Holtz, Maria Clemm, Mary McLaughlin, Elizabeth Foreman and Rebecca Price, or as many of them as are alive at the present time, widows of soldiers of the war of 1812, are allowed the sum of one hundred dollars each, to be paid by the city register, on the order of the commissioners appointed by the mayor and city council. See art. 24, secs. 4 and 5, p. 328, *ante*.

There is also a monument on Broadway, erected in 1865, to the memory of Thomas Wildey, who founded in the city of Baltimore, on April 26, 1816, the first society of the Independent Order of Odd Fellows on this continent.

and to serve without compensation. The said commissioners shall have general supervision of the squares for which they are respectively appointed; they shall see that the keeper attends faithfully to his duties; that the grounds are kept in good condition, and that order and propriety of deportment are maintained therein; and in case of any dereliction of duty on the part of the keeper, they shall report the same to the mayor. All appropriations for the preservation and adornment of the squares under their charge, shall be expended under their direction, and paid by the register on vouchers verified by them.

Powers and duties.

4. There shall be annually appointed as other city officers are appointed, one keeper of each of the city springs and fountains, one keeper of each of the public squares, and one keeper of the Washington monument.[1] And the board of health, with the approbation of the mayor, shall have power to make rules and regulations for the protection of the several public springs and fountains and squares, and the government of the persons who may frequent the same; and any person offending against such rules and regulations shall be liable to a penalty not exceeding twenty dollars for each offence.

No. 29, s. 1, R. O.; No. 91, June 18, '59.

Keepers of public springs and squares appointed.

Board of health to make regulations.

Penalty.

5. The register, with the approbation of the mayor, is hereby authorized to direct the payment of small sums from time to time to the keepers of the public springs and squares, for the payment of tools, utensils and other articles to keep the establishment clean and in order; provided, that they shall not exceed ten dollars a year for each establishment.

Register to pay for tools, &c.

Proviso.

6. The keepers of Franklin, Madison and Union squares, shall each receive as compensation the sum of three hundred and fifty dollars per annum; the keeper of the Eastern fountain, three hundred and fifty dollars per annum; the

No. 293, June 13, '68; No. 54, Ap'l 22, '64; No. 91, June 18, '59; No. 13, Mar. 22, '60; No. 5, Dec. 7, '59.

Salaries of keepers.

[1] Washington monument was erected by the State, under the acts of 1809, c. 113; 1815, c. 102; 1816, c. 77; 1818, c. 212; 1826, c. 165, and 1829, c. 165—the keeper was formerly appointed by commissioners under the act of 1809.

keepers of Battery and La Fayette squares each two hundred and fifty dollars per annum; the keeper of the City Spring on Calvert street, three hundred dollars per annum: all of said salaries payable monthly.

BATTERY SQUARE.

No. 82, Sept. 19, '54. Preamble.

7. Ordinance No. 82, Sept. 19, 1854, enacted the following: Whereas, application has been made for the condemnation of a piece or parcel of ground for a public square, bounded on the north by Randall street, on the east by Covington street, on the south by Heath street, and on the west by Johnson street, and notice having been given of said application, as required by the act of assembly, passed at December session, 1838, c. 226, entitled an act to vest certain powers in the corporation of the city of Baltimore, in relation to streets, and believing that the public convenience requires that the same should be done; therefore,

Ibid, s. 1. Ground for the Battery to be condemned.

8. The commissioners for opening streets in the city of Baltimore are hereby authorized and required to condemn all that piece or parcel of ground bounded on the north by Randall street, on the east by Covington street, on the south by Heath street, and on the west by Johnson street, to be used forever hereafter as a public square, to be called "The Battery."

Name.

Ibid, s. 2. Duty of the commissioners.

9. The said commissioners for opening streets shall proceed in all respects in the condemnation of said public square, as aforesaid, agreeably to the provisions of the ordinance entitled an ordinance to provide for exercising certain powers vested in this corporation in relation to streets in the city of Baltimore, approved April 30, 1850, except that the assessment for the damages and expenses which said commissioners shall ascertain will be incurred thereby, shall be made gene-

rally on the whole assessable property within said city, by assessing the same to the mayor and city council.

10. The sum of twelve thousand dollars, or so much thereof as may be necessary, to be taken out of any money in the treasury not otherwise appropriated, is hereby appropriated to pay the damages and expenses aforesaid.[1] Ibid, s. 3. Appropriation for damages.

EUTAW SQUARE.

11. Ordinance No. 18, Mar. 19, 1853, enacted the following: Whereas, Henry Tiffany has offered to convey to the mayor and city council of Baltimore, for public squares, and as such by this corporation to be forever kept, all that piece of ground within the limits of the city, now in the bed of Eutaw street, and extending from Dolphin street to the north line of said Henry Tiffany's property; therefore, No. 18, Mar. 19. 1853. Preamble.

12. The mayor is hereby authorized to receive from Henry Tiffany, a deed in fee of the square of ground lying in the bed of Eutaw street, and between Dolphin street and the north line of said Henry Tiffany's property; said deed to be approved in title and form by the city counsellor. Ibid, s. 1. Deed.

13. The said square shall be called Eutaw Square, and the said piece of ground shall be forever kept as public squares; and as soon as said deed shall have been executed and delivered, the mayor is hereby authorized and required to cause Ibid, s. 2. Name.

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[1] By ordinance No. 71, July 22, '52, a square was authorized to be laid out and condemned within the following lines: beginning at a point on the south side of Hughes street, at the intersection of Johnson street, and running thence easterly, binding on the south side of Hughes street to a point distant 150 feet westerly from the southwest intersection of Covington and Hughes streets; thence southerly, parallel with Covington street, to the north line of Hamburg street; thence westerly along the north line of Hamburg street to the northeast intersection of Hamburg and Johnson streets; thence northwardly along the east side of Johnson street to the place of beginning.

Iron railing. a suitable iron railing, of the height of not less than six feet, resting upon a dressed granite base, to be erected around said squares; provided, that all the necessary grading and paving of the streets around said squares, and the necessary grading of said squares, shall be made at the sole cost of the owners of the ground binding upon said squares, and under the supervision of the city commissioner.

Grading and paving of streets.

Ibid, s. 3. Houses on squares.

14. The iron railing[1] to be erected around said squares, as hereinbefore provided, shall not be so erected until said Henry Tiffany shall cause to be built upon each side of the square, not less than seven houses of not less than twenty-five feet front and three stories high; and as soon as said number of houses are erected on either square, the mayor is hereby authorized and required to have erected around said square or squares, on which are built and completed the required number of houses, a suitable iron railing as provided in section 13.

Ibid, s. 4. Deed of beds of streets.

15. The said Henry Tiffany shall give to the mayor and city council, a good and sufficient deed of all the beds of the streets, alleys and squares, from Townsend street north to the line of his property, on the same terms as are provided for in the preceding section; and should the streets, alleys and squares north of said Tiffany's property fail to be opened in eighteen months from March 1, 1853, then the said deed shall be null and void, so far as it refers to the property north of Townsend street.

Closing streets.

16. Ordinance No. 76, July 15, 1853, enacted the following: The commissioners for opening streets are hereby authorized and required to close Gibson (now Eutaw) street, and Morris and Jordan alleys, as laid down upon the plat of the

[1] By ordinance No. 35, July 8, 1856, an iron railing was authorized to be erected around Eutaw Square, similar to the railing around Mount Vernon Place, under the supervision of the city commissioner

city as returned by the extension commissioners, upon the act of assembly of December session, 1817, from the north side of Henry Tiffany's property to Laurens street, and to condemn and open and continue said Gibson (now Eutaw) street, and said Morris and Jordan alleys, from the north line of said Henry Tiffany's property to Laurens street, agreeably to a plat filed in the register's office; provided, that before said commissioners proceed to exercise the duties required of them by this ordinance, the said applicants, or some of them, shall execute and deliver, or cause to be executed and delivered, clear of expense, to the mayor and city council of Baltimore, a good and sufficient deed, in fee simple, for a strip or parcel of ground extending from the north line of the said Henry Tiffany's property to Laurens street, as aforesaid, of the width of about sixty-nine feet in the centre of said contemplated opening in Eutaw street, agreeably to said plat so filed in the register's office—to be kept open forever hereafter as public squares, to be called Eutaw Square.

Width of Eutaw square.

Plat.

FRANKLIN SQUARE.

17. Ordinance No. 47, April 23, 1839, enacted the following: Whereas, in consideration of the sum of ten thousand dollars, payable in account of paving as hereinafter specified, and subject to the terms and conditions hereinafter mentioned, James Canby and Samuel Canby have offered to convey to the mayor and city conncil of Baltimore for a public square, and as such by this corporation to be laid out, embellished, and forever kept, all that piece of ground within the limits of the city of Baltimore, bounded by Fayette and Lexington, and Carey and Calhoun streets; and whereas, said offer has been accepted by this corporation; therefore,

No. 47, Ap'l 23, '39.

Preamble.

Public square.

18. This corporation hereby, in consideration that said James Canby and Samuel Canby shall convey to said corporation the piece of ground aforesaid for the intent and uses aforesaid, binds itself to said James and Samuel, to satisfy and allow to said James and Samuel, their heirs or assigns,

Ibid, s. 1.

Deed.

in paving and work as hereinafter particularized, the sum of ten thousand dollars; subject, however, to the terms and conditions following, that is to say:

Terms and condition.

1st. The said James and Samuel, their heirs or assigns, shall, by a good and effectual deed, to be approved as to the title and form by the counsellor of the city, convey to this corporation, for the sole intent and purpose, and on the trust that the same be forever kept, and improved and embellished as a public square, the piece of ground aforesaid, including the portion of Vine street and the portion of Woodyear alley, projected and running through said piece of ground; the said James and Samuel, their heirs or assigns, in said deed directing and assenting that said portions of Vine street and Woodyear alley shall be forever closed.

Description.

2d. To the end that Lexington street, so far as it bounds the square aforesaid, Fayette street in its whole length from Gilmor street to Republican street, Carey street from Lexington street to Baltimore street, and Calhoun street from Lexington street to Baltimore street, shall be severally widened fourteen feet; the deed aforesaid shall convey, cede and assure to the corporation, for the streets and highways as aforesaid respectively, and so to be forever used, seven feet in width of the ground along and bounding the northern side and the southern side of Lexington street, between Carey street and Calhoun street, seven feet in width of the ground along and bounding the northern side of Fayette street, between Gilmor street and Republican street, and like seven feet in width of the same length of Fayette street of the ground bounded by the southern side of Fayette street, seven feet in width of the ground along and bounded by the eastern side, and the same width of ground along and bounded by the western side of Carey street, for the distance between Lexington street and Baltimore street, and seven feet in width of the ground along and bounded by the eastern side of Calhoun street, and the same width of the ground along and

bounded by the western side of Calhoun street, for the distance between Lexington street and Baltimore street.

3d. That the said additions to said streets respectively, of said pieces of ground of seven feet in width, shall be forever kept as foot pavements of said streets respectively, and shall be so conveyed by said deed; and that by said deed the said streets shall be ceded to this corporation, for the streets and highways respectively. Footways.

4th. That the buildings to be erected on the eastern side of Carey street, and on the western side of Calhoun street, between Lexington street and Fayette street respectively, and on the northern side of Lexington street, between Carey street and Calhoun street, and on the southern side of Fayette street, between Carey street and Calhoun street, shall be erected on a line distant from those streets respectively, not less than fifteen feet. Buildings to be erected.

19. So soon as by the terms of any sale or sales, lease, leases, or contract or contracts of lease, and other circumstances, that the mayor shall be satisfied that the erection is insured of at least four dwelling houses of brick, each of at least twenty-four feet front, and three stories high, on each of the pieces of ground of said James Canby and Samuel Canby, opposite to each side of the square aforesaid, and fronting on Fayette, Carey, Lexington and Calhoun streets respectively, the said mayor shall cause to be forthwith graduated and paved the portion of streets bounding each side of the said square, one-half the cost thereof to be at the expense of the said James and Samuel Canby, their heirs or assigns, and to be deducted from the purchase money aforesaid; and also, Lexington and Fayette streets, from Republican to Carey streets, should the amount of purchase money not be expended by the aforesaid grading and paving, and immediately after such grading shall have been made, cause to be graduated and paved, such other streets on the property of the said James and Samuel Canby, lying between Gilmor and Repub- Ibid, s. 3. Provision for paving.

lican streets, as will amount to the balance, if any, of the consideration to be given for the public square.

Ibid, s. 4. Charge for paving.

20. So far as the charge of said graduation and paving shall extend and be claimable of said James and Samuel Canby, their heirs or assigns, as owners of ground which might be chargeable therewith, the same shall be allowed to said James and Samuel, their heirs and assigns, in account of the purchase money aforesaid, of ten thousand dollars.

Ibid, s. 5. Time limited for improving.

21. If within two years from the date of this ordinance, there shall not have been erected on the grounds bounding said square, at least sixteen dwelling houses of brick, each of at least twenty-four feet front, and three stories high, then this ordinance may, at any time within six months from the expiration of said two years, be by this corporation declared and ordered to be null and void, and thereupon shall so become; and then and in that event, any graduation and paving as aforesad, that shall have been made, shall be paid and be enforced as charges generally for paving may be enforced; and the deed aforesaid of said James Canby and Samuel Canby, shall have reference to the provisions of this section, so as to declare the resulting liability aforesaid for such paving; and on this ordinance being annulled as aforefaid, this corporation shall re-convey and release to said James and Samuel, their heirs and assigns, the ground aforesaid that shall have been conveyed by them to the corporation, excepting only the pieces of ground of seven feet in width to be ceded as aforesaid, and which it is hereby declared shall in any event forever remain parts of the streets respectively aforesaid, which they shall be meant to widen; the annuling of this ordinance in other respects notwithstanding.

Ordinance may be repealed.

Ibid, s. 6. To be called Franklin square.

22. The said square shall be called Franklin Square, and that said piece of ground shall be forever kept as a public square; and as such be always kept by this corporation in good order, and suitably improved and embellished: and so soon as the deed aforesaid shall have been executed and de-

livered, the mayor hereby is authorized and required to cause a wooden fence or pailing to be erected around the square, and to have the ground of said square properly levelled and graduated, in reference to the streets leading thereto, according to their grades as now established, or as he may have the same established, as he is hereby authorized to do; and to have the said ground planted with trees and shrubs, as he shall direct.

Ibid, s. 7. Woodyear alley and Vine street closed.

23. So soon as said deed from said James and Samuel Canby shall have been executed and delivered, the portions aforesaid of Vine street and Woodyear alley, extending through the ground of said square, shall be and remain forever closed, and never liable to be opened as parts of said street and alley respectively.

Ibid, s. 8. Contract.

24. The deed to be executed as aforesaid, shall have reference to each and every provision of this ordinance, in general terms or specially, so that each provision hereof shall appear to be adopted as part of the contract between the corporation and said James and Samuel Canby, for and in respect of the acquisition and conveyance of said ground as a public square aforesaid.

Ibid, s. 9. Terms of sale of property to be submitted to the mayor.

25. If at any time hereafter, on the application of said James and Samuel Canby, or either of them, or the heirs or assigns of them, or any of them, to the mayor, submitting for his consideration any sale or sales, lease or leases, or contract or contracts therefor, within the terms and for the purposes of section 19 of this ordinance, the mayor shall certify to the parties so submitting, his being satisfied, as provided by said section 19, in reference to the object there mentioned; and if within six months after such favorable certificate of the mayor, the acts required of this corporation by section 22, shall not have been performed by said corporation, then this ordinance shall be null and void, and likewise the deed to be executed as aforesaid by said James and Samuel Canby, and the ground thereby conveyed to the corporation, shall by

it be re-conveyed and returned to said James and Samuel, their heirs and assigns; and the said James and Samuel, their executors, administrators and assigns, shall then be bound to repay to said corporation all sums of money that shall have been expended by it, or for which it shall have become liable, in relation to said square, under section 22.

Ibid, s. 10. Certain streets closed.

26. Woodyear alley, from Fayette street to Park land, and from Lexington street north to the outline of the land of James and Samuel Canby, and Vine street from Carey street to Stockton alley, and from Calhoun street to Norris alley, shall be and forever remain closed, so as to allow a uniform and unbroken front opposite each front of the public square.

No. 32, Ap'l 13, '44. Preamble.

27. Ordinance No. 32, April 13, 1844, enacted the following: Whereas, Franklin square has been laid out under the provisions of the ordinance to which this is a supplement; and whereas, from lapse of time and other causes it has become impracticable fully to carry out the provisions of the original ordinance, and it has therefore been agreed by and between James and Samuel Canby on the one part, and the mayor and city council of Baltimore on the other, to substitute the terms and conditions hereinafter set forth for those in the said original ordinance, so far as the same are inconsistent with or supplied by the provisions of this supplement.

Ibid, s. 1. Performance of contract.

28. As soon as the mayor of the city of Baltimore shall be satisfied that James and Samuel Canby have at their own expense well and sufficiently paved the whole of the streets left open around Franklin square, including the corners thereof, and that four three story houses of brick, not less than twenty-three feet front and forty feet deep, have been erected either on Lexington or Fayette streets, between Republican street and Franklin square, or on Calhoun or Carey streets, between Baltimore street and Franklin square; and the said James and Samuel Canby shall have executed and delivered to the mayor the deed hereinafter provided for, it shall and may be lawful for the said mayor to direct the

register of the city to pay over to the said James and Samuel Canby, the sum of two thousand five hundred dollars, out of any money in the treasury not otherwise appropriated; and as soon as four other similar houses, making in all eight, shall have been in like manner erected on any of the said parts of either of the said streets, it shall and may be lawful for the mayor to direct the register of the city to pay over to the said James and Samuel Canby another sum of two thousand five hundred dollars, out of any money in the treasury not otherwise appropriated; and as soon as four other similar houses, making in all twelve, shall have been in like manner erected on any of the said parts of either of the said streets, it shall and may be lawful for the mayor to direct the register of the city to pay over to the said James and Samuel Canby a third sum of two thousand five hundred dollars, out of any money in the treasury not otherwise appropriated; and as soon as four other similar houses, making in all sixteen, shall have been in like manner erected on any of the said parts of either of the said streets, it shall and may be lawful for the said mayor to direct the register to pay over to the said James and Samuel Canby a fourth sum of two thousand five hundred dollars—making in all the gross sum of ten thousand dollars; and it shall be the duty of the register, whenever directed by the mayor so to do, to pay over to the said James and Samuel Canby, the said several sums of money.

29. Before any part of said sums of money shall be paid to the said James and Samuel Canby, they shall execute, acknowledge and deliver a deed to the mayor and city council of Baltimore, in a form to be approved by the counsellor of the city of Baltimore, whereby they shall convey Franklin square aforesaid to the mayor and city council of Baltimore, by a good and sufficient title in fee simple, freed from all incumbrances, and also to the ten thousand dollars in paving, stipulated for in the ordinance to which this is a supplement, and to all claims of expenses or damages for opening the streets bounding or leading to the said square on which

Ibid, s. 2. Deed.

houses are to be erected according to the provisions of this supplement, or for paving in front of the said square, and shall signify their full assent and consent to this supplement, and every provision therein contained, and to the ordinance to which this is a supplement, except so far as it is repealed or modified by this supplement.

Ibid, s. 3; No. 29, June 7, '69. Description of buildings.

30. No house of a less front than twenty-four feet, and depth not less than forty feet, or less than three stories high, shall ever be erected in any of the streets binding Franklin square, opposite to any of the four sides of said square; provided, that the said provision shall not apply to the north side of Lexington street opposite said square. No house shall be erected on the said north side of Lexington street, opposite Franklin square, with a front of less than twenty-one feet six inches, or depth of less than forty feet, or less than three stories high.[1]

Houses on north side of Lexington street.

No. 32, Ap'l 13, '44. Repeal.

31. So much of the first section (sec. 18, *ante*,) of the ordinance to which this is a supplement [No. 47, April 23, 1839,] as binds the corporation to satisfy and allow to said James and Samuel Canby, their heirs or assigns, in paving and work as thereinafter particularized, the sum of ten thousand dollars, and also the third, fourth, fifth and ninth sections (19, 20, 21 and 25, *ante*) of the said ordinance as numbered in the printed book of ordinances for 1839, but which are really the second,

[1] Ordinance No. 17, April 18, 1861, recited that the front of ground lying on the north side of Lexington street, between Carey street and Calhoun street, opposite to Franklin square, is three hundred and thirty-four feet, which, if improved with houses of twenty-four feet front, would leave a vacant lot of twenty-two feet, which could not be improved under the provisions of the ordinance to which this is a supplement; therefore it enacted that the owners of the ground on the north side of Lexington street, between Carey and Calhoun streets, are hereby permitted to improve the said ground with houses of a front not less than twenty-three feet ten inches each; provided, that before making the said improvement, the written consent thereto shall be given by James Canby and Samuel Canby, their heirs and assigns, and of all persons claiming under them, or either of them, and that said written consent be approved of by the city counsellor, and filed with the register of the city of Baltimore, the consent hereby given being so given only to the extent the mayor and city council may lawfully give without interfering with their rights in Franklin square.

third, fourth and eighth sections of the original ordinance, shall be and the same are hereby repealed; provided, that the said repeal shall not extend to effect any of the other parts of said ordinance, which are all hereby declared to be still in force. Proviso.

32. All the pavements therein contemplated to be done, shall be done under the supervision of the city commissioner, and in accordance with the twenty-fifth section of an ordinance, passed 22d May, 1838. Ibid, s. 5. Paving.

HAERLEM SQUARE.

33. The mayor is hereby authorized to receive from the estate of the late Dr. Thomas Edmondson, the fee simple title to a square of ground in the city of Baltimore, bounded on the west by Gilmor street, on the east by Calhoun street, on the south by Thompson street, and on the north by Adams street, the location of Adams street being changed as hereinafter provided, between Gilmor and Carey streets; provided the said square shall be tendered to the mayor by a good and sufficient deed, without cost to the corporation, to be approved by the city solicitor; and that, when the said square shall be accepted as aforesaid, it shall be and is hereby declared to be a public square of the city of Baltimore forever. It shall be known as Haerlem Square, and as such, shall be forever subject to the ordinances and regulations of the mayor and city council of Baltimore. No. 9, s. 1, Feb. 29, '68. Title to a square of ground. Description. Proviso. Name of square.

34. In order that the above mentioned square may be properly proportioned, and made capable of the most judicious improvement, the location of Adams street, as the same is laid down in Poppleton's plat of the city of Baltimore, is hereby changed through the property belonging to the estate of the late Dr. Thomas Edmondson, between Gilmor street and Carey street, so that the south line of Adams street shall be four hundred and fifty feet nine inches from the northern side of Thompson street. Ibid, s. 2. Location of Adams street changed.

Ibid, s. 3. Boundaries.

35. In order that the area included within the boundaries of the said square may be preserved entire in the most advan-

Stricker street.

tageous manner for the use of the public, Stricker street, between Thompson street and Adams street, according to the changed location of the later, is hereby declared to be closed, so that the bed thereof may be included within the square aforesaid.

Ibid, s. 4. Railing.

36. So soon as the deed for the said square shall be accepted by the mayor as aforesaid, the city commissioner is hereby directed to cause the said square to be surrounded by a wooden enclosure, similar in all respects to that which surrounded Madison square; and to enable him to do this, the sum of three thousand dollars, or so much thereof as the city commissioner may deem necessary, is hereby appropriated, to be paid out of any money in the treasury not otherwise appropriated.

No. 20, Ap'l 3, '68. Deed,

37. The mayor is hereby authorized to receive from the estate of the said Dr. Thomas Edmondson, the fee simple title to the beds of the following streets, lying within the limits of the property owned by the said estate within the

Proviso.

limits of said city; provided, that the same shall be tendered to him in a good and sufficient deed, to be approved by the city solicitor, and free of all costs and charges to this corporation in any manner related to or connected with the said

Description.

cession, that is to say: Thompson street, from Dorsey's lane to the eastern boundary of said Edmondson's property, near Carey street; Adams street, from Dorsey's lane and according to its changed location to said last named boundary;

Streets.

Lanvale street, from Dorsey's lane to said last named boundary; Carey street, from Franklin street to the northern boundary of said Edmondson's property, between Lanvale and Townsend streets; Calhoun street, between the limits last aforesaid; Stricker street, between Franklin and Thompson streets, and between Adams street, according to its changed location, and the northern boundary of the Edmondson property aforesaid; and Mount street, between the land belonging

to the heirs of the late John I. Donaldson and the last named northern boundary; and also all the beds of all the alleys laid down within the limits of the Edmondson property aforesaid, upon a map thereof, filed with the register of the city, and a copy of which shall be attached to the deed of cession of said streets and alleys.

LA FAYETTE SQUARE.

38. Ordinance No. 34, April 28, 1857, enacted the following: The commissioners of finance are hereby directed to purchase, upon the agreement mentioned in the succeeding section, from Aaron Hoffman and others, the square of ground bounded by Townsend, Lanvale, Republican and Oregon streets. Ibid, s. 1. Square to be purchased. Location.

39. The said commissioners of finance are hereby directed to accept said square of ground, with the agreement to expend fifteen thousand dollars, or so much thereof as may be necessary to grade the square, and grade and pave all the streets which bind on said square, and also the streets adjacent to the square; which grading and paving shall be done under the supervision of the city commissioner. Ibid, s. 2. Grading & paving streets adjoining square.

40. The square of ground described in section 38 hereof, and directed to be purchased, is, from and ever after the approval of this ordinance, condemned and appropriated for a public square. Ibid, s. 3. Condemned for public use.

41. Whenever the owner or owners of the square of ground described in section 38, shall make and execute a good and sufficient deed and assignment for the same to the mayor and city council of Baltimore, so as to vest the title in them in fee simple, then it shall be the duty of the register to pay out of the levy of eighteen hundred and sixty, to such owner or owners, in sums not exceeding in amount fifteen thousand dollars, to which he or they may be entitled, under the contract or contracts made with him or them by the city commissioner, and as authorized by the commissioners of finance; Ibid, s. 4. Appropriation.

Proviso. provided, nevertheless, that the register shall not pay over any money under this section until the said commissioners of finance shall certify to him, in writing, that such sum or sums is the just and true amount due according to the contract with said owner or owners or proprietor applying for the same, and it is hereby made the duty of the said commissioners of

Commissioners of finance. finance to furnish to the register such certificates as may be necessary, in writing, that the paving called for in section 39 hereof has been done.

Ibid, s. 5. When enclosed. 42. When there shall be six houses of not less than twenty feet front each, built on that part of each of the streets fronting on La Fayette square, then the mayor is hereby authorized

Railing. to have said La Fayette square railed in with a good and substantial fence, and also to have the necessary grading done.

MADISON SQUARE.

No. 27, s. 1, Ap'l 6, '53. Location of square. 43. Ordinance No. 27, April 6, 1853, enacted the following: The commissioners of finance are hereby directed to purchase from Archibald Stirling the square of ground bounded by Chase, Caroline, Eager and Eden streets.

Ibid, s. 2. Payment. 44. The said commissioners of finance are hereby directed to contract to pay for the said square of ground the sum of thirty thousand dollars, in instalments of five thousand dollars, payable each on the first day of July in the years 1855, 1856, 1857, 1858, 1859 and 1860, and upon due notice of the completion of said contract by said commissioners, the register is hereby authorized and directed duly to secure the payment of the same, with interest at the rate of five per cent. per annum, payable quarter yearly, under the seal of the city, to the said Archibald Stirling, his order or assign.

Ibid, s. 3. Condemned for public use. 45. The square of ground in section 43 hereof directed to be purchased, is from this time forth and ever afterwards hereby condemned and appropriated for a public square.

46. Whenever the owner of the square of ground shall make and execute a good and sufficient deed and assignment for the same to the mayor and city council, so as to vest the title in them, in fee simple, then it shall be the duty of the register to pay out of any money in the treasury not otherwise appropriated, to such owner, the sum or sums of money to which he may be entitled, as interest or principal, under the contract or contracts made with him by the commissioners of finance; provided, nevertheless, that the register shall not pay over any money under this section until the said commissioners of finance shall certify to him, in writing, that such sum or sums is the just and true amount due, as interest or principal, to said owner or proprietor applying for the same, and it is hereby made the duty of the said commissioners of finance to furnish to the register such certificates as may be necessary, in writing, as aforesaid.[1] Ibid, s. 4. Deed. Proviso. Certificates.

MOUNT VERNON PLACE.

47. It shall not be lawful for any person to erect or set up any portico, steps or any other ornamental structure whatever, on Mount Vernon place, a greater distance into the place than nine feet, measuring from the building line thereof.[2] No. 59, R. O. Porticoes, steps &c. regulated.

PARK PLACE.

48. Ordinance No. 66, July 23, 1860, enacted the following: Whereas, application has been made by several citizens of Baltimore to have Grundy street, between McMechen and No. 66, July 23 '60. Preamble.

[1] Madison Square was improved under Res. No. 51, April 13, '55, and Res. No. 136, May 7, '56.

[2] The above ordinance recites the act of 1833, c. 180, which provides: that the mayor and city council of Baltimore are hereby empowered to pass ordinances regulating the limits within which it shall be lawful to erect steps, porticoes or porches, or other architectural ornaments to houses fronting on Mount Vernon or Washington place, in the city of Baltimore.

Laurens streets, and Jenkins and Foster alleys north of McMechen street, as laid down upon Poppleton's plat, closed; and notice having been given of said application, as required by the act of assembly, passed December session, 1838, c. 226, and believing that the public convenience will be thereby promoted; therefore,

Ibid, s. 1. Closing Grundy street.

49. The commissioners for opening streets are hereby authorized and required to close Grundy street, between McMechen and Laurens streets, and Foster alley from McMechen to Wilson street, and Jenkins alley from McMechen to Laurens street, as laid down upon the plat of the city as returned by the extension commissioners under the act of assembly passed December session, 1817; provided, that before the said commissioners proceed to exercise the duties required of them by this ordinance, the said applicants, or some of them, shall execute and deliver clear of expense, or cause to be executed and delivered clear of expense, to the mayor and city council of Baltimore, a good and sufficient deed in fee, for the following pieces or parcels of ground, viz: All that strip or parcel of ground as laid down on the accompanying plat, (which is hereby made a part of this ordinance,) between McMechen and Laurens streets, one hundred and fifty feet wide, to be called Park Place, and to be kept and preserved as a public square forever; and two several pieces and parcels of land, eighteen feet wide, and distant from each side of said park one hundred and thirty feet—the one to be called Jenkins alley, running from McMechen to Laurens street; the other to be called Foster alley, and running from McMechen to Wilson street, as laid down on the accompanying plat.

Proviso.

Name of square.

Ibid, s. 2. Iron railing.

50. So soon as all the necessary grading and paving around said Park place, or either square thereof, shall be done, and at least one-half the aggregate front feet of both fronts on such square or squares, are improved with good and substantial houses, the mayor is authorized and required to have such square or squares, whenever so graded and paved and improved, enclosed with a good and substantial iron railing

similar to that at Mount Vernon place. All the necessary grading around said square to be made at the cost of the owners of the ground binding thereon and made under the supervision of the city commissioner; provided, however, that the city shall not be chargeable for a sum exceeding seven hundred and fifty dollars for the paving of the two streets binding said two squares or parcels of ground on the northeast and southwest, and that all necessary curbing shall be furnished at the expense of the owners of property binding on the same. Proviso.

PROSPECT SQUARE.

51. The city commissioner is hereby authorized and directed to lay out a square of ground, octagon in form, twenty-two feet in diameter, at the intersection of Harford avenue, Brit- ton and Ensor streets, to be known as Prospect Square; and he is authorized and directed to advertise for proposals, and contract with the lowest responsible bidder for enclosing the same with a suitable iron railing, to be set on a dressed gran- ite base not less than ten inches in height above the pavement; provided said railing be not less than six feet high, and to be surrounded with a dressed granite curb and a brick footing four feet in width; provided, that when the owners of a majority of front feet of ground on Harford avenue, binding on Prospect square on the west side, and on Ensor street on the east side, shall have made application in writing to the city commissioner to have the said streets graded and paved, at their own expense, then the provisions of this section shall be carried out. No. 27, Feb. 28, '59; No. 85, May 20, '59. Square to be laid out, &c. Name. Iron railing. Provisos.

UNION SQUARE.

52. Ordinance No. 22, April 9, 1847, enacted the following: Whereas, the proprietors of a piece of ground bounded by Gilmor and Stricker streets and Hollins and Lombard streets, have offered to convey the same to the mayor and city council of Baltimore, for a public square, in consideration of and subject to the terms and conditions hereinafter mentioned; No. 22, April 9, 1847. Preamble.

and whereas, said offer has been accepted by this corporation, therefore,

Ibid, s. 1. Deed.

53. So soon as said proprietors shall, by a good and effectual deed, to be approved as to the title and form, by the city counsellor, convey to this corporation, for the sole intent and purpose, and on the trust that the same be forever kept and improved and embellished as a public square, the piece of ground aforesaid, together with all their right, title and interest in and to the waters proceeding from the springs which have their sources in said piece of ground; it being understood

Conditions.

and conditioned, however, that said waters shall be collected and discharged in the first instance, without limitation, from

Fountain.

an ornamental fountain, to be erected within the square, and thence conducted off, under the beds of the streets; and shall further, for the purpose of enlarging to eighty feet the width of the following named streets leading to the square, namely:

Streets.

Hollins and Lombard streets, between Calhoun and Gilmor streets, and Stricker and Gilmor streets, between Baltimore and Pratt streets, convey, cede and assure to this corporation, in addition to the beds of said streets as laid down on the city plat, seven feet on each side of the same, to be added to and forever kept as a part of the foot pavements of said streets respectively, the mayor is hereby authorized and required to

Iron railing.

cause a suitable iron railing, of the height of not less than six feet, resting on a dressed granite base, to be erected around the square, and to have the ground of said square properly levelled and graduated in reference to the streets leading thereto, according to their grades as now established, or as hereafter may be established, and to have the said ground planted with trees and shrubs.

Ibid, s. 2. Name.

54. The said square shall be called Union Square, and the said piece of ground shall be forever kept as a public square, and as such be always kept by this corporation in good order, and suitably improved and embellished; and the mayor is hereby authorized and required, in conjunction with the city commissioner, to cause an ornamental structure of a suitable

character, considered with reference to the general style of the inprovements herein provided for, to be erected over the fountain from which the waters of the spring shall be discharged. Fountain.

55. The ground of said square shall be levelled and graduated, and the waters of the springs be collected as provided in section 53, within two years; the ornamental structure over the fountain shall be erected as provided in section 54, within three years; and the ground shall be planted with trees and shrubs, as provided in section 53, within five years from April 9, 1847. Ibid, s. 3. Time limited.

56. The iron railing to be erected around the square, as hereinbefore provided for in section 53, shall be erected as soon as the before mentioned proprietors shall have built or caused to be built upon their grounds, between Carey and Gilmor streets, twelve houses of not less than twenty-three feet front and not less than three stories high.[1] Ibid, s. 4. Iron railing. Houses near square.

57. A suitable site in the square for a monument, proposed to be erected by the Jackson monumental convention, is hereby reserved and granted, in case the said convention shall select said site for the monument so proposed to be erected. Ibid, s. 5. Monument.

58. The several improvements hereinbefore stipulated to be made by this corporation shall be completed as provided in sections 55 and 56; provided, however, that the average annual expenditure in making said improvements shall not exceed an amount equal to one-half cent in each hundred dollars of the city assessment; and for any delay in com- Ibid, s. 6. Improvements. Proviso. Expenditure.

[1] By ordinance No. 45, May 31, '53, the proprietors were released from the above obligation; provided, that in lieu of the five of said twenty-three feet houses then unbuilt by them, they built or cause to be built seven houses of not less than twenty feet front.

pleting said improvements consequent upon this limitation, this corporation shall not be held or deemed liable to any claim or demand for damages, in law or equity.[1]

[1] This ordinance repealed ordinance No, 69, May 15, 1846, relating to the same subject, and entitled an ordinance to authorize the mayor to accept a deed for the property therein named.

By ordinance No. 38, April 18, 1849, the mayor and register were authorized to sell the right to all surplus water arising from the public fountain in Union square, to the president and directors of the Baltimore and Ohio Railroad Company; provided, that they received from said company the sum of four thousand dollars for the same; and provided further, that such instrument of writing as might be necessary in the case, should be approved by the city counsellor; and permission was granted to the directors of said company, under the direction of the city commissioner, to lay the pipes necessary to convey said water to their depot, below the bed of such streets as they might deem it expedient to traverse.

ARTICLE XLII.

STOCKS, LOANS AND FINANCE.

STATUTES.

1. Corporation may issue certificates of stock: amount.
2. Levy.
3. Corporation may increase public debt, issue bonds, &c.: to create sinking fund: levy.

ORDINANCES.

COMMISSIONERS OF FINANCE.

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2. Vacancy.
3. City certificates: form.
4. Amount.
5. Duty of register: city counsellor.
6. Stock lists: transfer books, when closed.
7. Renewal of certificates: to be advertised.
8. Applicant for, to make oath before mayor.
9. Identity of applicant.
10. Pledge for redemption.
11. Interest.
12. City debt, how to be discharged.
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14. Commissioners to lease city property pledged for redemption of public debt: provisos.

15. Investments.
16. Sale of stocks: investments.
17. Cancelling certificates: re-issue.
18. Denomination of certificates.
19. Consolidation of city stock.
20. Accounts for sinking funds.
21. Consolidation: exchange of stock: sinking fund.
22. Issue of city stock.
23. Tax.
24. Sinking fund.
25. To fund certain amount of floating debt.
26. Tax.

STOCKS.

27. Almshouse.
28. City Hall.
29. Court-house.
30. Defence and Bounty.
31. Division.
32. Jail.
33. Park.
34. Water.

LOANS, ENDORSEMENTS, &C.

35. Baltimore and Ohio Railroad.
36. Northern Central Railway, &c.
37. Northwestern Virginia Railroad.
38. Pittsburg & Connellsville Railroad
39. Union Railroad.
40. Virginia Valley Railroad.
41. Western Maryland Railroad.

STATUTES.

1. The mayor and city council may, for the purpose of promoting or effecting any great or permanent improvement, issue stock in certficates of an amount not less than one hundred dollars each, transferable only in person or by letter of attorney, in books to be kept for that purpose in the office of the register of the city; or may borrow money on the credit of the corporation; provided, the amount of stock so created and issued, or money borrowed, shall at no one time exceed one million of dollars, exclusive of all debts created under special acts of assembly for the purposes in the said acts specified.[1]

P. L. L., art. 4, sec. 866. Corporation may issue certificates of stock. Amount.

2. They may levy upon the assessable property within the city, and collect by tax, any sum which may be necessary to pay and discharge the principal and interest of any loan which may heretofore have been obtained, or which may hereafter be obtained, by said corporation, according to law.

Ibid, sec. 867. Levy.

3. The mayor and city council of Baltimore are hereby authorized and empowered to increase, in case they shall deem it necessary so to do, the public debt of said city, to the

1861, c. 75. Corporation may increase public debt, issue bonds, &c.

[1] See Const., art. 11, sec. 7, p. 5, *ante*.

extent of not more than one million five hundred thousand dollars beyond the amount above authorized; and to issue for said increased debt the bonds or notes or other evidences of debt of said city. The mayor and city council of Baltimore shall create a sinking fund to meet the liabilities to be incurred under this law, and may also levy upon the assessable property of the city of Baltimore from time to time such sum or sums as may be necessary to provide therefor, and for the payment of the principal and interest of the liabilities to be incurred under this section, and may pass all ordinances necessary to carry out the purposes of the same.

To create sinking fund.
May levy.

ORDINANCES.

COMMISSIONERS OF FINANCE.

No. 6, 1, R. O. Appointment of commissioners of finance.

1. There shall be annually elected, by a convention of both branches of the city council, two persons of experience and integrity, who in conjunction with the mayor, shall constitute the board of commissioners of finance.

Ibid, s. 2. Vacancy.

2. In case of vacancy by death or resignation, it shall be the duty of the mayor to supply such vacancy, and the person or persons thus appointed by the mayor, shall remain in office until an election by a convention as aforesaid shall have taken place.

Ibid, s. 3. City certificates Form.

3. Certificates of city stock shall be issued in the following form, viz: —— per cent. stock of the city of Baltimore, No. ——, —— dollars, —— Baltimore. This is to certify, that the corporation of the city of Baltimore is indebted to ——, in the sum of ——, redeemable ——, and until so redeemed, bearing interest at the rate of —— per centum per annum, payable quarter yearly on the first days of January, April, July and October. This certificate is only transferable at the mayor's office, in person or by attorney, and the delivery of the certificate to the transferee. In testimony whereof, and in virtue of an ordinance of the city of Balti-

more, I, the mayor, have hereto set my hand and affixed the seal of the corporation, this —— day of ——, 18—, —— ——, Mayor. Countersigned and recorded by —— ——, Register.

Ibid, s. 4. Amount.

4. All certificates of stock shall be issued in sums of not less than one hundred dollars each, and they shall only be transferable at the mayor's office, in the presence of the mayor or register, by the proprietor or proprietors thereof, or his, her, or their legal representatives.

Ibid, s. 5. Duty of register.

5. Before the register shall issue any certificate of stock, he shall receive the money for which the same may be issued, and shall proceed to apply the said money to the purposes for which the issue of certificates was authorized, unless otherwise provided for by any special ordinance, in which case it shall be the duty of the register to obtain the written opinion of the city counsellor to that effect previous to issuing any certificate of stock required by such special ordinance.

City counsellor.

Ibid, s. 6. Stock lists.

6. It shall be the duty of the register to open and keep regular and correct loan books for the registry and transfer of city stock, and under the direction of the commissioners of finance, to make up lists of its proprietors in time for the punctual payment of the interest, and to pay and take receipt therefor, and for these purposes the transfer books shall be closed twenty days previous to each day on which the interest is made payable.

Transfer books, when closed.

Ibid, s. 7. Renewal of certificates.

7. In all cases of application for renewal of certificates of the stock debt of the city of Baltimore, where said certificates may have been lost or destroyed, the person making such application shall give at least sixty days' notice by publication once a week, in two of the daily newspapers published in the city of Baltimore, describing such certificate or certificates, and at the same time declaring his or her intention to make such application.

To be advertized.

Ibid, s. 8. Applicant to make oath before mayor.

8. The register shall, before he issues such duplicate certificate or certificates, require the person making such application to make oath before the mayor of the city of Balti-

more, that such certificate or certificates was lost or destroyed; the circumstances, if any, under which said certificate or certificates were lost or destroyed, and shall also be satisfied that he or she is the owner, agent or representative of the owner of said certificate or certificates.

Ibid, s. 9. Identity of applicant.

9. If the register shall not, from the evidence before him as contained in section eight of this ordinance, be satisfied of the identity of the person, or from the circumstances that such certificates are actually lost or destroyed, then he shall require the person making such application to enter into a bond with security to be approved by him, in double the amount of such certificate, or at the option of said person to refer the subject, together with the evidence in his possession, to the next session of the city council.

Ibid, s. 10. Pledge for redemption of stock.

10. The faith of the corporation and its corporate property are hereby pledged for the redemption of the stock and payment of interest thereon, quarter yearly, on the first day of January, April, July and October.

Ibid, s. 12. Interest.

11. Such sum as may be necessary for the payment of the interest on the public debt, shall be included in the appropriation bill of each and every year.

Ibid, s. 13. City debt, how to be discharged.

12. All such payments as may be necessary to enable the said commissioners to discharge or reimburse any demands against the city on account of the principal or interest of the debt, which shall be actually due in conformity to the engagements of the city, shall be made at such times in each year as will enable the commissioners faithfully and punctually to comply with such engagements.

Ibid, s. 14. Certain moneys to be invested in city stocks, or deposited in bank.

13. The commissioners of finance shall invest in city stock all moneys in their hands, or to their credit in bank, received for the sale or rent of city property, pledged for the redemption of the public debt; and shall also invest all moneys that may hereafter be received from the above mentioned sources, as well as all interest accruing thereon from time to time,

and have the transfers made in the name of the commissioners of finance, and also have stamped on the face of each and every certificate by them purchased, the words "sinking fund not to be re-issued," and report to the city council in the first week of its annual session, the amount purchased, and the dates and prices at which they were purchased, and exhibit their books and the certificates of stock by them purchased during the preceding year, to the committee appointed on their accounts, which committee shall endorse all certificates of stock, if correct, and report to the city council.

Report to council.

14. The board of commissioners of finance shall, whenever in their opinion it is consistent with the interest of the city, lease any part or parcel of the public property belonging to the city, which is now or may hereafter be pledged for the redemption of the public debt, and apply the proceeds of such leases exclusively towards the object of the sinking fund; provided, that in no case shall any lease be made without the approbation and consent of the mayor, who is hereby authorized to execute the necessary conveyances to the lessees; provided also, that the same shall be offered at public auction, after ten days' notice previously given in two or more of the daily papers, of the time and place of such sale, and leased to the highest bidder for ninety-nine years renewable forever, or for a shorter period, should such bids, in the opinion of said board, be for the interest of the city to accept; and provided further, that one-fourth of the principal that would accrue at six per cent. upon the bids agreed upon, be first paid in cash or satisfactorily secured, and the balance, three-fourths, be placed on lease for the time and agreeably to conditions named in said advertisement or promulgated at the place of sale; and provided further, that nothing in this section shall be construed to relate to the public wharves of the city.[1]

Ibid, s. 17.

Commissioners to lease city property pledged for redemption of public debt.

Provisos.

Wharves.

[1] See Art. I, sec. 2, p. 7, *ante*.

No. 58, June 4, '68.
Investments.

15. The commissioners of finance, in connection with the city register, are hereby authorized and empowered to invest for the various sinking funds, in the guarantees as well as the stock of the city.

No. 93, Oct. 22, '64.
Sale of stocks.
Investments.

16. The commissioners of finance are hereby authorized and empowered, in their discretion, to sell such stocks in any and all companies as are held by the city, and invest the proceeds in either city, United States or State of Maryland securities, and at maturity of the bonds issued by the city for any of the purposes for which the bonds were issued, to redeem the same, by selling sufficient stock or bonds owned or held by the sinking fund for the purpose.

No. 42, June 17, '67.
Cancelling certificates.
Re-issue.

17. The commissioners of finance are hereby authorized and directed to cancel all certificates of the following loans which may be presented to the register for transfer, viz: Almshouse loan, floating debt and defence loan, jail stock, Susquehanna canal loan, and Baltimore and Susquehanna railroad loan; and to issue in lieu thereof to the respective holders of the same, certificates of the six per cent. stock of the city of Baltimore, redeemable after July 1st, 1890; the interest to be payable quarterly on the first days of January, April, July and October in each and every year.[1]

Ibid, s. 2.
Denomination of certificates.

18. The commissioners of finance are hereby authorized and directed in the issue and transfer of certificates of stock

[1] Ord. No. 6, secs. 15 and 16, June 11, 1858, provided, that the register of the city, under the authority of the commissioners of finance, be and he is hereby authorized on the application of the holder or holders of any certificate of five per cent. stock of the city of Baltimore, redeemable at the pleasure of the mayor and city council, respectively, after the first day of July, eighteen hundred and thirty-eight, and the first day of July, eighteen hundred and forty-five, to issue a new certificate therefor, in the usual form, for the same amount, bearing the same interest, payable in the same manner, and redeemable at the pleasure of the mayor and city council after the first day of July, eighteen hundred and sixty. That the register of the city shall report annually to the city council the amount of certificates so renewed, and hold the cancelled certificates at the disposal of the city council, to be distroyed by the joint committee appointed to examine the accounts of the commissioners of finance.

in the various loans of the city of Baltimore, to issue the said certificates in sums of one hundred dollars and equal multiples thereof; and that in case of the presentation for transfer of certificates of stock calling for fractional parts of one hundred dollars, the commissioners of finance may purchase the said fractional parts for the use of the sinking funds; or if the holder or holders prefer, they may upon his, her or their paying the difference to the commissioners of finance, issue a certificate or certificates in the manner and form as herein above provided.

No. 29, Ap'l 27, '61. Consolidation of city stock.

19. The commissioners of finance are hereby authorized and empowered to consolidate the several certificates of city stock held by them, for any and every sinking fund under their care, and annually hereafter to consolidate all certificates of city stock as aforesaid, when examined and approved by the committee on accounts of the commissioners of finance.[1]

No. 89, Oct. 16, '66. Accounts for sinking funds.

20. The register, as clerk to the commissioners of finance, is hereby directed and required to open accounts upon the books of the commissioners of finance for all sinking funds, except the "five million loan," wherein shall be entered full and detailed accounts of each sinking fund, the amount, how invested, the acts of the commissioners in relation thereto, and all other facts necessary to a full and succinct history of each fund; to hold or invest the same, or the interest accruing from time to time, as said commissioners of finance may direct.

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[1] Res. No. 228, June 12, '60, provides that the register is hereby authorized, under the supervision of the joint standing committee on register's accounts, to consolidate the several certificates of City Stock now held by him in trust for any sinking fund, and annually hereafter, after the examination of the stock purchased by him for any and every sinking fund of which he is or may be trustee, to consolidate the same and cancel the old certificates in the presence of said committee, and report the same from time to time to the mayor and city council.

No. 92, Oct. 22, '64.
Consolidation.

21. The commissioners of finance are hereby authorized and empowered to consolidate the city six per cent. bonds, in such way and manner as they may deem best, keeping in view the rights and privileges of the holders thereof; and they are further empowered to issue one million, or so much thereof as may be necessary, of five per cent. city bonds, interest payable quarterly, and redeemable in 1885, and exchange the same with the holders of the old five per cent. bonds, dollar for dollar, and to issue six per cent. bonds not exceeding one million of dollars in amount, to provide for any deficiency in the means of meeting existing appropriations; and for the purpose of increasing the sinking fund to an amount required by this increased issue, a tax of five cents on each hundred dollars of assessable property, shall be levied in the year 1873, and annually thereafter, until said bonds are paid or provided for.

Exchange of stock.

Sinking fund.

No. 17, Ap'l 19, '62.
Issue of city stock.

22. The commissioners of finance are hereby authorized and directed to issue city bonds, redeemable in twenty years, bearing interest at the rate of six per centum per annum, payable quarterly, not to exceed two hundred thousand dollars, and dispose of the same at their discretion, and hand the proceeds to the register, who shall apply the same to the payment of the floating debt.

Floating debt.

Ibid, s. 2.
Tax.

23. A tax of one cent shall be annually imposed upon every hundred dollars of assessable property, for twenty years, or such time as the stock ordered in the preceding section to be issued may be redeemed.

Ibid, s. 3.
Sinking fund.

24. The tax, when collected, shall be applied to the purchase of city stock, as a sinking fund for the redemption of the stock ordered to be issued by this ordinance, and the register shall be the trustee thereof.

No. 1, Feb. 7, '68.
To fund certain amount of floating debt.

25. The city register is hereby authorized to fund seventeen hundred thousand dollars of the existing floating debt of the city of Baltimore in stock of the said city, payable at the

pleasure of the mayor and city council of Baltimore, after July 1st, 1890, and bearing interest at the rate of six per centum per annum, payable quarter yearly, on the first days of January, April, July and October, in each year, until redeemed.

26. There shall be levied annually, upon each one hundred dollars worth of the taxable property of the said city, three cents, to be placed in the hands of the commissioners of finance, as a sinking fund for the redemption of said debt. Ibid, s. 2. Tax.

STOCKS.

27. ALMSHOUSE.

The ordinances authorizing this stock are as follows: No. 40, s. 8, May 20, '62; No. 25, Mar. 26, '64.

The commissioners of finance are hereby authorized and directed to issue bonds of the city of Baltimore, bearing six per cent. interest, payable quarterly, and to become due July 1st, 1890, to an amount not exceeding one hundred thousand dollars, and pay them over to the register of the city, who is hereby authorized to sell the same, in his discretion; said bonds, or in case of sale, their proceeds, to be by him set aside as a fund to be applied towards the erection of the new almshouse provided for in this ordinance. Bonds. Amount.

The comptroller is hereby authorized, with the approval of the mayor, to sell the remaining bonds issued by Baltimore county, now held by the city; also, to sell, or lease, (and in the latter case to sell the leases,) the lots of ground owned by the city, near the Franklin road, and designated as Nos. 4, 5 and 7, on the plat of the old almshouse property, made at the time of the division of the same between Baltimore city and county; also the farm purchased of A. W. Goldsborough, situated near the Philadelphia turnpike, and hand over from time to time, as received, the proceeds to the register of the Ibid, s. 9. Comptroller to sell the Baltimore county bonds. Old Almshouse property.

city, to be by him invested in securities of the city, or bonds endorsed by the city, and set aside the same as a sinking fund to pay the bonds hereby authorized to be issued, at maturity.[1]

No. 35, June 7, '65. Bonds.

The commissioners of finance are hereby authorized and directed to issue bonds of the city of Baltimore, bearing six per cent. interest per annum, payable quarterly on the first days of July, October, January and April of each year, and to become due on the first day of July, 1890, to an amount not exceeding three hundred thousand dollars, and deliver them over to the register of the city, who is hereby authorized to sell said bonds; the proceeds of sale to be by him set aside as a fund to be applied towards paying the indebtedness and completing the Baltimore Bayview asylum, as provided in ordinance No. 40, approved May 20th, 1862.

Register to sell.

Ibid, s. 2. Tax.

A tax of one cent shall be annually imposed upon every hundred dollars worth of assessable property; said tax, when collected, to be applied to the purchase of city stock as a sinking fund for the redemption of the stock authorized to be issued by above section.

Sinking fund.

No. 3, Feb. 16, '66. Bonds for Bayview asylum.

The commissioners of finance are hereby authorized and directed to issue fifty thousand dollars of the bonds of the city of Baltimore, bearing six per cent. interest, payable quarterly, and to become due July 1st, 1890, and pay the same over to the register of the city, who is hereby authorized to sell the same in his discretion; said bonds, or their proceeds, to be by him set aside as a fund to be applied to the completion of the Bayview asylum, subject to the same conditions and restrictions imposed by ordinance No. 40, approved May 20, 1862.

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[1] See note, p. 58, *ante*, for the ordinances under which Bayview asylum was built.

28. City Hall.

The ordinances authorizing this stock are as follows: No. 62, June 24, '68.

The register is hereby authorized and directed to issue the bonds of the city from time to time as the same may be required, in the course of the erection of the new city hall, should it hereafter be determined to erect said hall, to an amount not exceeding one million of dollars, the proceeds from the sale of said bonds to be used in the construction of said city hall; provided, that this ordinance shall be approved by a majority of the votes of the legal voters of the city cast at the election hereinafter provided for.[1] New City Hall.

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

The sum of two cents on every hundred dollars worth of assessable property in the city of Baltimore, and in like proportion for any greater or less amount, is hereby levied for the year 1869, and annually thereafter 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.[2] Ibid, s. 3. Sinking fund.

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[1] 1868, c. 391, enacted, that the mayor and city council of Baltimore are authorized to issue the bonds of the said city to an amount not exceeding the sum of one million of dollars, the proceeds from the sale of said bonds to be used in the construction of a city hall in the city of Baltimore; provided, that before the issue of said bonds the said loan be authorized by an ordinance of the mayor and city council of Baltimore, and approved by a majority of the votes of the legal voters of the said city, cast at such time and places as may be fixed by said ordinance as prescribed in the seventh section of article eleven of the Constitution of this State.

[2] This ordinance was submitted to the vote of the citizens and adopted.

No. 73, s 11, Aug. 5, '68. Bonds.

In pursuance of the authority vested in the mayor and city council of Baltimore, by the act of assembly of 1866, c. 1, the commissioners of finance are hereby authorized and directed to issue city bonds, in addition to the bonds heretofore authorized to be issued for the said purpose, by ordinance, in certificates of not less than one hundred dollars each, redeemable in fifteen years and bearing interest at six per centum per annum, payable quarterly, and transferable as other city bonds, to the amount of six hundred thousand dollars, or so much thereof as may be required from time to time, and that a tax of two cents on every hundred dollars of assessable property, annually, be levied as a sinking fund for the redemption of the said bonds, and the proceeds of said tax, when collected, shall be paid over to the commissioners of finance, and be by them applied to such redemption.[1]

Sinking fund.

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[1] 1866, c. 1, provides, that for the purpose of building a city hall and such other improvements connected therewith as may be deemed necessary, the mayor and city council of Baltimore are hereby empowered to issue city bonds in certificates of not less than one hundred dollars each, redeemable in fifteen years, and bearing interest at six per centum per annum, payable quarterly, and transferable as other city bonds, to an amount not exceeding six hundred thousand dollars, and shall provide a sinking fund of two cents on every hundred dollars of assessable property, annually, for the redemption of the bonds so authorized to be issued; provided, that said city hall shall not be commenced within one year from the passage of this act.

The property on which the city hall is built, on Holliday, Fayette and North streets, was leased from George Brown and John White, under ordinance, No. 18, approved May 11, 1854. The terms and conditions were as follows:

1st. The mayor and city council of Baltimore agree to pay to George Brown, his heirs and assigns, an annual rent of two thousand six hundred and forty dollars, payable quarterly, subject to a ground rent of sixty dollars per annum—and to John White, his heirs and assigns, the annual rent of three thousand six hundred dollars, payable quarterly, subject to a ground rent of one hundred and twenty dollars per annum; the said rents to commence on the first day of January, 1858, and to continue for ninety-nine years, renewable forever; but redeemable at the pleasure of the mayor and city council of Baltimore at any time within

twelve years from the date of the passage of this ordinance, at the rate of six per centum upon the respective amounts received by George Brown and John White, their heirs and assigns as herein stated; and the option is to be given in said agreement of lease to the mayor and city council of Baltimore, to take possession of said property at any time anterior to the first of January, 1858, by giving twelve months' notice to the said George Brown and John White, their heirs or assigns, of their desire so to do, and the rents aforementioned shall commence on the day of the date when said possession is given.

2d. And provided that said agreement shall contain a covenant that the said parties shall convey their respective interests in said property to the mayor and city council of Baltimore in the manner and upon the terms above set forth.

3d. And that the agreement of lease shall be approved by the counsellor for the city, who shall be satisfied that the parties shall convey an unincumbered title, in conformity with the aforegoing conditions.

4th. That no part of the agreement of lease shall be entered into with either of said parties, unless the whole property shall be embraced in said agreement.

Ord. No. 64, May 30, 1866, recites that the time for the redemption of the ground rents on the lots leased from Brown and White, binding on Fayette, Holliday and North streets, and on Orange alley, expires by limitation on 11th May, 1866; and that it is thought best that the property, owned by the mayor and city council of Baltimore, whenever practicable, should be owned in fee; therefore it authorizes the commissioners of finance to provide for the redemption of said ground rents, by using such funds as they may have in their hands for that purpose.

Res. of March 16, 1869, authorizes the commissioners of finance to redeem the ground rents on lots of ground leased of Brown and White, for the new city hall, out of proceeds of sale of any stock authorized to be issued for building said hall.

1854, c. 315, enacted the following: that for the purpose of purchasing a site for and the erection of a city hall, and such other improvements connected therewith as may be deemed necessary, the mayor and city council of Baltimore be and they are hereby empowered to issue stock in certificates of an amount not less than one hundred dollars each, redeemable at such time as may be deemed most expedient, and bearing an annual interest of five per cent., and transferable only in person or by letter of attorney at the office of the city register of Baltimore, or borrow money upon the credit of the corporation; provided, the amount of stock so created and issued or money borrowed shall not exceed the sum of four hundred thousand dollars.

2. That the mayor and city council of Baltimore may purchase a lot or square of ground for the purpose recited in the first section of this act; and if the mayor and city council of Baltimore or their agent or agents cannot agree with

the owner or owners of any lot or part of any lot for the purchase and use and occupation of the same, or if the owner or owners or any of them be a feme covert, under age, non compos mentis, or a non-resident of the city of Baltimore when such lot, lots or square of ground may be wanted, application may be made to the judge of the criminal court of Baltimore, who shall thereafter issue his warrant under his hand and the seal of the said court, directed to the sheriff of said city, directing him to summon a jury of twenty inhabitants of the city of Baltimore, not related or in anywise 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 the issuing of the same; and if at the same time and place any of said jurors 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 its, his, her or their agent, if either be not present in person or by agent, the sheriff for him, her, it or them, may strike off four jurors, and the remaining twelve shall act as the jury of inquest of damages; and before they act as such, the said sheriff shall administer to each of them an oath or affirmation, as the case may be, that he will justly and impartially value the damages which the owners will sustain by the use or occupation of the same by the said mayor and city council; and the jury shall reduce their inquisition to writing, and they shall sign and seal the same, and it shall then be returned by said sheriff to the clerk of said court, and be by said clerk filed in his court, and shall be confirmed by said court at its next session if no sufficient cause to the contrary be shewn, and when confirmed shall be recorded by said clerk at the expense of the said m ay and city council, but if set aside the said court may direct another inquisition to be taken in the manner above prescribed; and such inquisition shall describe the property taken, or the bounds of the land condemned, and the quality or duration of the interest in the same valued for the corporation; and such valuation, when paid or tendered to the owner or owners of said property, or his, her or their legal representatives, shall entitle the said corporation to the estate, use and interest in the same thus valued, as fully as if it had been conveyed by the owner or owners of the same; and the valuation, if not received when tendered, may at any time thereafter be received from the aforesaid corporation without costs, by their said owner or owners, his, her or their legal representatives.

The building of the city hall is provided for by ordinance No. 73, approved August 5, '68. Previous ordinances and resolutions on this subject are No. 98, Oct 16, '60; No. 58, Sept. 25, '65; No. 48, July 23. '67; Res. No. 123, June 15, '63; No. 1, Nov. 14, '67; No. 38, Dec. 3, '67; No. 334, July 1, '68; No. 339, July 1, '68. There are also Res. March 16, '69, and April 1, '69.

29. COURT-HOUSE.

The ordinances authorizing this stock are as follows:

No. 19, April 14, 1835. Court-house stock.

In compliance with the provisions of an act of assembly, passed at December session, 1834, entitled an act to authorize the repairing of the court-house of Baltimore county, and for other purposes, there shall be created a city stock not exceeding eighty thousand dollars, bearing an interest of five per centum per annum, payable quarterly, and irredeemable before the first day of July, 1860, to be called the court-house stock, for such sums as the commissioners appointed in said act of assembly shall from time to time certify to the mayor to be necessary.

Ibid, s. 2. Commissioners to obtain money as required.

Whenever the said commissioners shall, in conformity with the provisions of the act of assembly aforesaid, certify to the mayor that any sum of money is necessary for the purposes of the said act, it shall be the duty of the register, under the superintendence of the commissioners of finance, to advertise for proposals for a loan for the amount required as aforesaid, and the premium, if any, which may be received on said loan, shall be applied by the said commissioners of finance to a sinking fund for the reimbursement of the principal of said court-house stock.

Ibid, s. 4. Interest to be paid.

For the purpose of paying the city's portion of the interest and principal of said court-house stock, there shall annually be levied upon the assessable property of the city of Baltimore, the sum of two thousand five hundred dollars, which, together with the amount directed by the act aforesaid to be annually levied by Baltimore county, shall be paid over to the commissioners of finance, and shall be applied, first to pay the interest on said stock, and whatever balance may remain after paying said interest, shall constitute a sinking fund to discharge the principal of said debt.

No. 33, May 12 '60. Tax.

A tax of one cent on the one hundred dollars worth of assessable property in the city of Baltimore, shall be annually

levied for twelve years, as a sinking fund to redeem the stock debt issued for re-building the court-house.

Sinking fund Court-house stock debt.

The register shall pay the amount of collections received by him from the city collector, from said tax, to the commissioners of finance, who shall invest the same in city stock; also the interest received from said stock so invested—to be marked "sinking fund court-house stock debt," and to be used for no other purpose than the liquidation of the court-house stock debt.

No. 10, s. 1, Mar. 8, '63. Com. of finance to call in bonds of Court-house.

The commissioners of finance are hereby authorized to call in on the first day of April, 1863, the bonds issued for repairs on the court-house, redeemable after the twenty-first day of July, 1858, and notify the holders that the interest on said bonds will not be paid after said first of April.

Ibid, s. 2. To sell bonds of Court-house sinking fund.

The commissioners of finance are hereby authorized and empowered to dispose of sufficient bonds, now standing to the credit of the sinking fund for redemption of the court-house debt, to accomplish the object of the above section, and the bonds so redeemed shall be cancelled; and the committee on commissioners of finance accounts shall examine, and if found correct, destroy the same, and report to the city council. [1]

30. Defence and Bounty.

No. 18, Ap'l 19, '62. Preamble.

The sections of the ordinances authorizing these stocks are as follows:

Whereas, by ordinance No. 22, approved April 20th, 1861, five hundred thousand dollars, or so much thereof as may be necessary, was appropriated for the defence of the

[1] Ordinance No. 14, March 16, '63, authorized the commissioners of finance to call in on the first of April ensuing, the bonds of the city redeemable at pleasure, as also those redeemable after July 1, 1860, and notify the holders of said bonds that interest thereon will cease on the 31st day of March, 1863; and to dispose of sufficient bonds now standing to the credit of the general sinking fund, to accomplish the object of this ordinance; and that the bonds so redeemed shall be cancelled, and the committee on accounts of finance commissioners shall examine the same, and if found correct, destroy them, and report to the city council.

city; and whereas, the expenditure will not exceed eighty thousand dollars; and whereas, the money borrowed for the above mentioned purpose was borrowed on short time, and the payment during the present year would be burthensome to the tax payers,—therefore:[1]

The commissioners of finance are hereby authorized and directed to issue city bonds, redeemable in twenty years, bearing interest at the rate of six per centum per annum, payable quarterly, to the amount of eighty thousand dollars, or so much thereof as may be necessary, and dispose of the same at their discretion, and pay the proceeds to the register, who shall repay the money borrowed and used in the defence of the city. Ibid, s. 1. Bonds. Amount.

A tax of one cent on every hundred dollars of assessable property, shall be annually levied for and during the space of twenty years, or until the amount of stock issued under above section of this ordinance be redeemed. Ibid, s. 2. Tax.

The commissioners of finance are hereby authorized and directed to issue thirty thousand dollars of city bonds, or so No. 56, s. 6, Aug. 11, '62. Bonds.

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[1] 1861, c. 1, authorized the mayor and city council to raise and appropriate at their discretion, and in the modes and at the times which they may judge best, all moneys whatever, which they may deem necessary and proper for the defence and protection of the city, and provide for the payment of the same by taxation or otherwise, as they may deem most advisable.

1861, c. 2, confirmed and ratified the ordinance of the mayor and city council appropriating $500,000 for the defence of the city, approved April 20, 1861, No. 22, which provided that the sum of five hundred thousand dollars, or so much thereof as may be necessary, is hereby appropriated for the purpose of putting the city in a complete state of defence against any description of danger arising, or which may arise out of the present crisis, the same to be expended under the direction of the mayor, and to be paid by the register out of any money not otherwise appropriated in the city treasury. That the register of the city is hereby authorized to raise the said sum, or so much thereof as may be necessary as aforesaid, by issuing the promissory notes of the city, in such amounts as the mayor and register of the city may approve. That the tax as above levied when collected, shall be applied first to the payment of the interest, and the balance to the purchase of city stock, as a sinking fund for the redemption of the stock, and the register shall be the trustee thereof. This ordinance was repealed by No. 19, April 24, '62.

Amount.

much as may be needed from time to time, bearing interest at the rate of six per cent. per annum, payable half yearly, and redeemable in thirty years, and dispose of the same at market price, and deposit the proceeds with the register, to be used by him exclusively for paying the rent of drill rooms, armories, and furnishing the same, and for furnishing the privates and non-commissioned officers with uniforms, as provided for in this ordinance.[1]

No. 52, s. 7, Aug. 9, '62. Bonds.

Amount.

In order to meet the disbursements required by this ordinance,[2] the commissioners of finance are hereby authorized to issue three hundred and fifty thousand dollars of city bonds, or so much thereof as may be needed from time to time, bearing interest at the rate of six per centum per annum, interest payable half yearly, and redeemable in thirty years, dispose of the same at market price, and deposit proceeds with the register; and should the bonds command a premium, the register shall set aside the premium as a sinking fund, and from and after ten years there shall be levied annually three cents on every hundred dollars of assessable property, as a sinking fund for the redemption of the debt thus created.

No. 60, s. 7, Aug. 18, '62. Bonds.

In order to meet the disbursements required by this ordinance,[3] the commissioners of finance are hereby authorized

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[1] Entitled an ordinance to provide for the defence of the city, by furnishing drill rooms and armories and furniture for the First Light Division Maryland volunteers, and furnishing the privates and non-commissioned officers thereof with uniforms.

[2] Entitled an ordinance to encourage the enlistment of volunteers in the several regiments now being raised by the late order of the war department, and to make an appropriation as a bounty to such volunteers as may be mustered into the service of the United States, in any of said regiments raised in Baltimore city. This ordinance was repealed by ord. No. 60, Aug. 18, 1862. This ordinance and the supplements thereto, were confirmed by act of 1864, c. 153.

[3] Entitled an ordinance to encourage the enlistment of volunteers in the several regiments now being raised by order of the President of the United States, under date of July 2, 1862, by paying a bounty to such volunteers as have enlisted or may enlist in the city of Baltimore, to make up the quota apportioned to said city.

to issue three hundred and fifty thousand dollars of city bonds, or so much thereof as may be needed from time to time, bearing interest at the rate of six per centum per annum, interest payable half yearly, and redeemable in thirty years, dispose of the same at market price, and deposit proceeds with the register; and should the bonds command a premium, the register shall set aside the premium as a sinking fund, and from and after ten years there shall be levied annually, three cents on every hundred dollars of assessable property, as a sinking fund for the redemption of the debt thus created. Amount.

The commissioners of finance are hereby authorized to sell the bonds of the city as directed in the ordinance to which this is a supplement,[1] or borrow the money required by hypothecating the same, in their discretion. No. 66, s. 10, Sept. 27, '62. Sell bonds or borrow money.

In order to meet the disbursements required by this ordinance[2] the commissioners of finance are hereby authorized No. 61, May 4, '64. Bonds.

[1] Entitled an ordinance supplementary to ordinance No. 60, entitled an ordinance to encourage the enlistment of volunteers in the several regiments now being raised by order of the President of the United States, under date of July 2, 1862, by paying a bounty to such volunteers as have enlisted or may enlist in the city of Baltimore, to make up the quota apportioned to said city, approved August 18, 1862.

This ordinance recites, that an impression exists that the bonds of the city authorized to be issued by ordinance No. 60, approved Aug. 18, '62, to the amount of three hundred and fifty thousand dollars; also those authorized by ordinance No. 62, approved Sept. 9, '62, for a similar amount, making together the sum of seven hundred thousand dollars, will all be issued and sold in the market; and that but a small portion of those authorized by the first named ordinance will be required, as those persons only who volunteered previous to Sept. 1, 1862, are entitled to the benefit of the same; and that it is ascertained that the sum of three hundred and fifty thousand dollars will be amply sufficient to pay all the bounty as provided to be paid to volunteers in both of said ordinances, as well as the sum proposed to be raised for the relief of the families of volunteers in the ordinance for the relief the families of the volunteers from the city of Baltimore in the various Maryland regiments in service, being raised or thereafter to be raised.

[2] Entitled a further supplement to an ordinance entitled an ordinance to encourage enlistments of volunteers in the several regiments now being raised by order of the President of the United States, under date of July 2, 1862, by paying a bounty to such volunteers as have enlisted or may enlist in the city of Baltimore, to make up the quota apportioned to said city, approved August 18, 1862.

Amount. to issue one hundred thousand dollars of the city bonds, or so much thereof as may be needed from time to time, bearing interest at the rate of six per centum per annum, the interest and principal payable at the same time with the interest and principal of the bonds issued under the ordinance to which this is a supplement, and dispose of the same at market price, and deposit the proceeds with the register, and should the bonds command a premium, the register shall set aside the premium as an addition to the sinking fund already created for the redemption of the bounty bonds, which fund shall be applicable to the bonds hereby authorized, as well as to the original issue, and from and after eight years, there shall be levied, annually, one cent on every hundred dollars of assessable property, to be added to the sinking fund aforesaid.

No. 62, s. 7, Sept. 9, '62. In order to meet the disbursements required by this ordinance,[1] the commissioners of finance are hereby authorized

Amount. to issue three hundred and fifty thousand dollars of city bonds, or so much thereof as may be needed from time to time, bearing interest at the rate of six per centum per annum, interest payable half yearly, and redeemable in thirty years, dispose of the same at market price, and deposit proceeds with the register; and should the bonds command a premium; the register shall set aside the premium as a sinking fund, and from and after ten years there shall be levied, annually, three cents on every hundred dollars of assessable property, as a sinking fund for the redemption of the debt thus created.

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[1] Entitled an ordinance to encourage the enlistment of volunteers in the several regiments or artillery companies now being raised by order of the President of the United States, under date of July 2d, 1862, by paying a bounty to such volunteers as have enlisted or may enlist in the city of Baltimore, to make up the quota apportioned to said city, on or after the first day of September, 1862, to the day of the draft. This ordinance was repealed by ord. No. 66, Sept. 27, 1862.

In order to meet the disbursements required by this ordinance,[1] the commissioners of finance are hereby authorized, in their discretion, to issue four hundred thousand dollars of city bonds, or so much thereof as may be needed from time to time, bearing interest at the rate of six per centum per annum, interest payable half yearly, and redeemable in thirty years, dispose of the same at market price, and deposit proceeds with the register; and should the bonds command a premium, the register shall set aside the premium as a sinking fund, and from and after ten years, there shall be levied annually three cents on every hundred dollars of assessable property as a sinking fund for the redemption of the debt thus created.

No. 50, s. 7, June 18, '63. Bonds. Amount.

In order to meet the disbursements required by this ordinance,[2] the commissioners of finance are hereby authorized to issue six hundred thousand dollars of city bonds, or so much thereof as may be necessary from time to time, bearing interest at the rate of six per cent. per annum, interest payable half yearly, and redeemable at the pleasure of the mayor and city council at any time after the first day of July, 1893, dispose of the same at market price and deposit the proceeds

No. 8, s. 6, Feb. 16, '64. Bonds. Amount

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[1] Entitled an ordinance to provide for the defence of the city of Baltimore by paying a bounty to volunteers who may enlist under the call of the President of the United States, bearing date June 15th, 1863, to form the quota of troops that may be apportioned to said city.

This ordinance and the supplements thereto were confirmed by act of 1864, c. 151. The act of 1864, c. 132, authorized the mayor and city council to raise and appropriate an amount of money not to exceed $300,000 in any one year, for the relief of the families of those who enlisted or were drafted into the military service of the United States as a part of the quota of the city of Baltimore.

[2] Entitled an ordinance to provide for the defence of the city by encouraging the enlistment of volunteers in the several regiments now in the field, or now being raised by order of the President of the United States under the late call for five hundred thousand men, by paying a bounty to such volunteers as have enlisted or may enlist in the city of Baltimore to make up the quota apportioned to said city.

This ordinance was held invalid by the law officers of the city as not authorized by act of assembly.

with the register, and should the bonds command a premium the register shall set aside the premium as a sinking fund, and from and after ten years there shall be levied annually three cents of every hundred dollars of assessable property as a sinking fund for the redemption of the debt thus created.

No. 63, s. 3, May 10, '64. Bonds.

Amount.

In addition to the appropriation made in the ordinance to which this is a supplement,[1] the further sum of four hundred thousand dollars, or so much thereof as may be necessary, is hereby appropriated to carry out the provisions of the ordinance aforesaid, and of this supplement thereto, and in order to meet the aforesaid appropriation, the commissioners of finance are hereby authorized and directed to issue from time to time as they may be needed, the bonds of the city to an additional amount not exceeding four hundred thousand dollars, on the same terms and conditions as those already issued under the provisions of ordinance No. 60, approved August 18, 1862, to dispose of the same at the market price, and deposit the proceeds with the register.

Ibid, s. 4. Terms and conditions.

In issuing the bonds authorized by ordinance No. 8, to which this is a supplement, the commissioners of finance shall make them conform to the terms and conditions of those already issued under the provisions of ordinance No. 60, approved August 18, 1862, and the premium obtained upon the sale of said bonds, as well as upon the sale of the additional amount of bonds authorized by this ordinance, shall be added to the sinking fund provided for in said ordinance No. 60, the benefits of which sinking fund shall be extended to cover the bonds issued under the provisions of this ordinance, and of that to which it is a supplement.

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[1] Entitled a supplement to ordinance No. 8, entitled an ordinance to provide for the defence of the city, by encouraging the enlistment of volunteers in the several regiments now in the field, or now being raised by order of the President of the United States, under the late call for five hundred thousand men, by paying a bounty to such volunteers as have enlisted or may enlist in the city of Baltimore, to make up the quota apportioned to said city, approved Feb'y 16, 1864.

For the purpose of raising the money required under this ordinance,[1] the register of the city is hereby authorized to issue the bonds of the city, bearing six per cent. per annum interest, for the sum of one hundred thousand dollars, in the manner and on the conditions prescribed by the ordinance entitled an ordinance to encourage the enlistment of volunteers in the several regiments now being raised by order of the President of the United States, under date of July 2, 1862, by paying a bounty to such volunteers as have enlisted or may enlist in the city of Baltimore, to make up the quota apportioned to said city, approved August, 1862. No. 76, June 6, '64. Bonds. Amount.

In order to meet the disbursements required by this ordinance,[2] the commissioners of finance are hereby authorized to issue seven hundred and fifty thousand dollars of city bonds, or so much thereof as may be necessary, from time to time, bearing interest at the rate of six per cent. per annum, payable half yearly, and redeemable at the pleasure of the mayor and city council of Baltimore, after first of September, 1893; dispose of the same at market price, and deposit the proceeds with the register, and if they command a premium, the register shall set aside the premium as a sinking fund; and there shall be levied annually three cents on every hundred dollars of assessable property as a sinking fund, for the redemption of the debt thus created. No. 1, s. 7, Jan. 17, '65. Bonds. Amount.

31. Division.

This stock was authorized by the following ordinance: No. 117, Oct. 5, '53.

Whereas, by an act of assembly passed at January session, 1853, c. 253, it is provided that in consideration of a deed of conveyance and release, the mayor and city council of Baltimore shall, by an ordinance of the city, bind the corporation Preamble.

[1] Entitled an ordinance to provide for raising two regiments of Maryland militia, to serve one hundred days, under the call of the Governor of the State.

[2] Entitled an ordinance to provide for filling the quota of the city of Baltimore under the call of the President of the United States for three hundred thousand men, of December 19th, 1864.

to pay and discharge the whole unsatisfied debt, with all interest due thereon occasioned by the rebuilding of the court-house, and to release the county from all claims and demands of the city on the county, of every nature and kind, from the earliest time to the present period. And the said mayor and city council of Baltimore are further authorized and required to issue certificates of stock, to bear five per cent. interest, and payable at the pleasure of the corporation within thirty years from the passage of this act, to the amount of sixty-eight thousand five hundred dollars, and to deliver the same to the county commissioners, for the benefit of Baltimore county; and whereas, the mayor and city council of Baltimore, having accepted of the provisions contained in this act, are desirous to carry the same into full effect; therefore,

Ibid, s. 1. Pledge of city in relation to division of joint property of city and county.

The faith of the city is hereby pledged in furtherance of the objects mentioned in the aforesaid act, that the mayor and city council of Baltimore will pay and discharge the whole unsatisfied debt, with all interest due thereon, occasioned by the rebuilding of the court-house, and they do agree to release Baltimore county from all claims and demands of every nature and kind, from the earliest times to the present period; provided that the county commissioners of Baltimore county shall, agreeably to the conditions imposed by said act, acknowledge, execute and deliver to and in favor of the mayor and city council of Baltimore a deed of conveyance of all the undivided moiety, or half part, heretofore belonging to Baltimore county, of, in and to the several lots on which are situate the court-house, record office and jail, and all improvements thereon and appurtenances thereto, and also of and in and to two several lots situate in that part of the city called Fell's Point, and that the said deed shall include a release of all demands of every nature and kind, due to or claimed by them from the said mayor and city council of Baltimore, from the earliest times to the present period.

In compliance with the provisions of the act of assembly aforesaid, there shall be created a city stock to the amount of sixty-eight thousand five hundred dollars, bearing an interest of five per cent. per annum, payable quarterly, and redeemable at the pleasure of the corporation, within thirty years from the 21st day of May, 1853, to be called the "division stock," in such sum as the city register and the county commissioners of Baltimore county shall agree upon.[1]

Ibid, s. 2. 5 per cent stock to be created.

32. Jail.

This stock is authorized by the following ordinances:

No. 42, s. 1, May 23, '54. New Jail.

The sum of fifty thousand dollars is hereby appropriated for the erection of a new jail, or the enlargement and repair of the old, so that, in connection with the new jail, the building may be adapted to the wants of the city; provided that said jail shall be owned exclusively at the time of building or enlargement, by the city of Baltimore.

Ibid, s. 2. Levies to be made.

The said sum so appropriated shall be levied for in annual instalments, that is to say: five thousand dollars in each of the years 1851 and 1852; ten thousand dollars in 1853; and fifteen thousand dollars in each of the years 1854 and 1855.

Ibid, s. 3. Annual instalments to be made.

The city register is hereby authorized and directed, on the first day of August, in each of the aforesaid years, to withdraw from the city treasury the amount of said annual instalments, as they may severally become due as aforesaid; and until said jail be commenced, invest the same in five per cent. stock of the city of Baltimore or of the State of Maryland, and hold the same in trust for the special use of said jail; and the said register shall regularly receive the interest accruing on said stock, and re-invest the same in like manner with the original instalment.

Ibid, s. 4. Duty of register.

The said city register shall open an account with the said new jail, regularly passing to its credit all moneys or stocks which may be received, and charging it with all payments

[1] As to division of property, &c., see *note*, p. 8, *ante*.

made in its behalf, and shall make annual report of the same to the city council at the time prescribed for making his regular yearly summary.

Ibid, s. 5. Payments and transfers, how to be made.

No payments on account of said jail shall be made except in conformity with the provisions prescribed by ordinance in like cases, for the government of said register; and further, no stock invested as aforesaid, shall be transferred, except with the approval of the mayor, endorsed on the certificate or certificates for the same.

No. 20, s. 1, Ap'l 20, '58. Stock.

Whenever H. R. & J. Reynolds, or such person or persons as may be legally authorized, shall give a release in full to the mayor and city council for all claims on account of the new jail, amounting to fifty-two thousand six hundred and forty-five dollars and seventy-two cents, being the balance of an award made to the said H. R. & J. Reynolds, by arbitrators appointed mutually by the mayor and city council and the said Reynolds for their claims upon said jail, the city register shall pay to the said H. R. & J. Reynolds, or such person or persons as may be legally authorized to receive the same, the amount of stock proposed to be issued by this ordinance.

Ibid, s. 2. Commissioners of finance to issue stock.

Under and by virtue of the power vested in the mayor and city council of Baltimore, by an act of assembly, passed at January session, 1858, c. 294,[1] the commissioners of finance of the city of Baltimore are hereby authorized and directed to

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[1] 1858, c. 294, enacted: that the mayor and city council of Baltimore, are hereby empowered to issue bonds or inscribed stock of the said city, to an amount not exceeding two hundred and fifty thousand dollars, for the purpose of paying the indebtedness and completing the new jail for said city, said bonds or stock to bear interest at the rate of six per cent. per annum, payable on the first day of January and July, and be redeemed in fifteen years from date of issue; and that the said mayor and city council shall establish a sinking fund for the redemption of said bonds or stock, by levying an annual tax of two cents on every hundred dollars of assessable property within the limits of said city, until said bonds or stock hereby authorized to be issued shall be redeemed. The jail was built under ordinances No. 42, approved May 23, '54; No. 20, April 20, '58; No. 28, May 31, '58; No. 13, Feb. 4, '59; No. 17, Feb. 18, '59; No. 7, March 28, '61.

issue in conformity to said act, certificates of debt of the mayor and city council of Baltimore, to be denominated on the face "jail stock," to the amount of fifty-two thousand six hundred and forty-five dollars and seventy-two cents, in sums of not less than one hundred dollars each, all bearing interest at the rate of six per cent. per annum, and payable half yearly thereafter, on the first day of July and on the first day of January in each year, the interest commencing on the 26th of November, 1857.

Ibid, s. 3. Additional stock to be issued.

The commissioners of finance shall make a further issue of the stock described in the previous section to the amount of ten thousand dollars, and dispose of so much thereof as may be necessary to realize eight thousand eight hundred and eighty-nine dollars and nineteen cents, and hand the same to the register for the purpose of paying notes given on account of the new jail, and interest thereon.

No. 28, s. 9, May 31, '58. Register to issue and sell jail stock.

The register is hereby authorized and directed to issue and sell from time to time the certificates of new jail stock to such an amount as may be requisite, to enable him to pay eighty per cent. of the monthly estimates of work done as designated in this ordinance, and upon the certificate of the comptroller, to pay from the proceeds of the sale of said new jail stock, the said eighty per cent. of the monthly estimates of work done; and on the completion of the said contract to sell all of the said new jail stock remaining, or so much as may be necessary and pay to the said contractor or contractors, or other parties legally authorized to receive the same, the amount due, including the twenty per cent. retained for the faithful fulfilment of the contract.

33. Park.

No. 18, Ap'l 9, '58. Park fund.

This stock is authorized by the following ordinances:

The commissioners of finance are hereby authorized and empowered to receive from the city register the one-fifth of the gross revenue of the Passenger Railway Company, as provided for in an ordinance entitled an ordinance empowering William

H. Travers, William S. Browning, Wm. De Goey, Robert Cathcart, Joshua B. Sumwalt, and those who are now or may hereafter become associated with them and their assigns, to build and lay down tracks for a passenger railroad on Baltimore street, and other streets, approved March 28, 1859, and invest the same from time to time in Baltimore city six per cent. stock, as well as the accruing interest, as a Park fund, said fund not to be devoted to any other purpose than the one originally designed, and to be subject only to the mayor and city council.[1]

To be invested in six per cent. stock.

No. 80, s. 1, May 26, '66. Register authorized to account with park commission.

The register is hereby authorized, in accounting with the public park commission, to pay to them the revenue derived from the passenger railways without other deduction than the interest on the bonds issued for the purchase of said parks and the sinking fund.

Ibid, s. 2. Amount.

The register is hereby authorized to pay to the public park commission, in such sums as may from time to time be required, fifty thousand dollars, of which sum ten thousand dollars shall be for the use exclusively of Patterson park, and the remainder for Druid Hill park.

No. 37, s. 1, May 2, '63. Powers of park commission.

Whenever the park commission shall certify to the register, under their respective hands, that they require a sum of money for an object connected with the said parks, said object to be at the same time designated, it shall be the duty of the register to issue the bonds of the mayor and city council of Baltimore in the usual form, redeemable on the first day of January, 1895, bearing interest at the annual rate of six per centum, payable quarterly on the first days of January, April, July and October, and designated as "park improvement stock," for an amount sufficient to meet such requisition after retaining one-tenth of the par value for the purposes of a sinking fund, and the said register shall sell the bonds so

Bonds.

Park improvement stock.

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1 As to the ordinances and acts of assembly providing for the revenue above mentioned, see art. 34, sec. 1, *note*, p. 541, &c. Art. 36, sec. 47, p. 588; 57, p. 592; p. 594; sec. 4, p. 597; sec. 67, p. 599; sec. 87, p. 606.

issued, not under par, and out of the proceeds pay to the said commission, the amount of their requisition or requisitions, from time to time, as the money may be needed; provided that the whole amount of bonds, so issued, shall not exceed the sum of one hundred and fifty thousand dollars for Druid Hill park and twenty thousand dollars for Patterson park, and should the register sell the said bonds for more than par, the surplus shall be retained by him, and applied to the payment of the first interest accruing upon said bonds. Proviso. Surplus to pay interest.

After deducting from the revenue derived from the city passenger 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 pavillion, and the net receipts from any passenger railway which may be laid within Druid Hill park, shall be applied, as far as necessary, to reimburse the city the interest upon the bonds hereby authorized to be issued; provided that not less than one-eighth of the sum reserved in this section for the annual maintenance of the parks and of the excess of annual receipts from the city passenger railways over the amount necessary to provide for the interest on the bonds issued under the provisions of this ordinance, shall be expended in the improvement and preservation of Patterson park. Ibid, s. 2. Amount. Druid Hill park Proviso. Patterson park.

One-tenth of the par value of said bonds retained by the register, as directed in the first section, 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, and the proceeds of all sales or rents of any land south of Newington lane which may be sold or leased by the park commission, shall be paid to the register of the city, to be invested by the commissioners of finance in the sinking fund herein provided for, until the said fund shall in the opinion of the said Ibid, s. 3. Investment. Sales or rents invested.

commissioners be adequate to the redemption of the bonds hereby authorized, at their maturity, and the register shall be the trustee thereof.

No. 52, June 28, '65.
Additional issue.

In addition to the bonds authorized to be issued for Druid Hill park by the above ordinance, there shall be issued in the manner provided in said ordinance, the sum of twenty-seven thousand dollars, to which additional sum all the provisions of said ordinance shall apply as though the sum therein mentioned had included the sum now authorized.[1]

34. WATER.

No. 80, July 29, '54.

The ordinances authorizing this stock are as follows:

Water stock to be issued.

Under and by virtue of the power in them vested by an act of assembly, passed January session, 1853, c. 376, entitled "an act for supplying the city of Baltimore with pure water,"[2] the commissioners of finance are hereby authorized and directed to issue, in conformity to said act, certificates of debt of the mayor and city council of Baltimore, to be denominated on the face "Baltimore water stock," to the amount

Amount.

of one million three hundred and fifty thousand dollars, in sums of not less than one hundred dollars each, all bearing

Interest

interest at the rate of six per cent. per annum, from the first

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[1] See further under Parks, sec. 7, p. 546, *ante*, act of 1868, c. 36.

[2] This act authorized the issue of $2,000,000. It forms sections 928 to 941, inclusive, of art. 4 of Public Local Laws, (see statutes under Water, *post;*) section 939 of said article, being 1853, c. 376, s. 3, and 1858, c. 38, is amended by the act of 1866, c. 38, which authorizes the mayor and city council, in the name of the city, to issue certificates of debt to be denominated on the face "Baltimore water stock," to an amount not exceeding $4,500,000, 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.

1861, c. 20, authorizes the mayor and city council to issue certificates of debt to an amount not exceeding $500,000, in addition to the amount authorized to be issued by section 939 of art. 4, (which authorized certificates of debt to be issued to an amount not exceeding $3,000,000,) to be denominated upon their face "Baltimore water stock," and bearing interest not exceeding six per cent. per annum, and to provide by ordinance for the redemption of the same.

day of November, 1854, and payable half-yearly thereafter, on the first day of May and on the first day of November in each year, and the whole redeemable at the pleasure of the mayor and city council of Baltimore, at any time on and after the first day of May, in the year one thousand eight hundred and seventy-five; said certificates to be signed by the mayor and by him sealed with the corporate seal of the city of Baltimore, countersigned and recorded by the register, and to be in the following form: When redeemable.

BALTIMORE WATER STOCK.

Form of certificate.

THIS IS TO CERTIFY, that the mayor and city council of Baltimore are indebted to ——— ———, in the sum of ——— dollars, redeemable at the pleasure of the mayor and city council of Baltimore, at any time on or after the first day of May, 1875, on the presentation and surrender of this certificate, with interest thereon, in the meantime, at the rate of six per centum per annum, payable half-yearly, on the first day of May and on the first day of November, in each year. This certificate is issued by virtue of the ordinance of the mayor and city council of Baltimore, entitled "an ordinance to provide for the purchase and conveyance of certain corporate rights, privileges and franchises, and of certain portions of the real estate and other property of the Baltimore water company, to the mayor and city council of Baltimore, and their assigns," and is transferable only at the mayor's office, in person or by attorney, and on the delivery of this certificate to the transferee.

In witness whereof, I, the mayor of the city of Baltimore, have hereto set my hand and affixed the seal of the said corporation, this day of , in the year of our Lord, one thousand eight hundred and fifty-four.

[SEAL.] ———, *Mayor.*

Countersigned and recorded,

———, *Register.*

Ibid, s. 2. When deliverable.

The said commissioners, as aforesaid, are hereby authorized and directed, as soon as they, the said commissioners, are fully satisfied that the stipulations and conditions, as hereinafter provided, have been complied with and fulfilled by the president and directors of the Baltimore Water Company, to deliver to the said president and directors, or to whomsoever may be legally empowered to receive the same on their behalf, the certificates of debt to the amount of one million three hundred and fifty thousand dollars, in the preceding section mentioned.

Ibid, s. 3. Water company to pay interest.

All interest that may accrue upon the whole principal sum of the aforesaid certificates of debt, between the first day of November, 1854, and the day of the date of the delivery of said certificates to the president and directors of the Baltimore Water Company, as hereinbefore mentioned, shall be by said president and directors first paid to the register of the city before the said certificates, or any part thereof, shall be so as aforesaid delivered by the said commissioners to the said president and directors.

Ibid, s. 4. Conditions precedent.

The said commissioners shall not deliver to the president and directors of the Baltimore Water Company the whole, or any part of the certificates hereinbefore mentioned, until said president and directors shall first, as conditions precedent thereto, have complied with and fulfilled the following stipulations and provisions, to wit: provided, first, that the president and directors of the Baltimore Water Company shall make, execute and deliver to the mayor and city council of Baltimore, or their assigns, such deed or deeds of conveyance and assurance in the law (to be first approved by the counsellor of the city) as shall convey to the said mayor and city council, and their assigns, all the property, whether real, personal, or mixed, comprised, or intended so to be, within the terms of the proposal of sale and conveyance to the city, made by the president of the Baltimore Water Company, in his communnication, bearing date December 1st, 1852, addressed to Joshua Vansant, then one of the water

First.

commissioners; and provided, secondly, that the said presi- Secondly.
dent and directors shall make, execute and deliver, as aforesaid, such deed or deeds, as aforesaid, as shall convey to the said mayor and city council, and their assigns, all the property, whether real, personal, or mixed, situate and lying in Baltimore county, in the State of Maryland, that does or may belong to the said president and directors, and is not mentioned or referred to in the proposal of the said president, hereinbefore mentioned, save and except the property purchased by said president and directors from the heirs of the late James Beatty, and known as the Eagle works; and provided, thirdly, that the said president and directors shall Thirdly.
make, execute, and deliver, as aforesaid, such deed or deeds, as aforesaid, as shall convey, as aforesaid, all the property, real, personal, or mixed, now held by them, or to which they may be entitled, within the limits of the city of Baltimore, under and by virtue of any indenture, or other instrument of writing, at any time made, as follows: first, between the president and directors of the Union Bank of Maryland and the president and directors of the Baltimore Water Company; secondly, between Alexander B. Gordon, and others, and said president and directors last mentioned; thirdly, between Alexander McDonald and Nicholas Ridgely, co-partners, and the president and directors last mentioned; (save and except so much of said property as has been heretofore conveyed to the president and directors of the Baltimore and Susquehanna railroad) and lastly, all property in said city, lying eastwardly of the northwesternmost side of Belvidere street, to which the president and directors of the Baltimore Water Company may be entitled, under and by virtue of any indenture or other instrument of writing between Christian Keener, or between any other person or persons, or body corporate, and the president and directors last mentioned; and provided, fourthly, that any deed or deeds hereinbefore provided to be Fourthly.
made by the president and directors of the Baltimore Water Company to the mayor and city council of Baltimore, and their assigns, shall contain a covenant that said president

and directors will not, (except as is hereinafter excepted and provided) either directly, by themselves, or indirectly, through others, exercise or permit to be exercised any of the rights, privileges and franchises they may now have or be entitled to by virtue of any act or acts of the general assembly of Maryland, or of any supplement or supplements thereto; but said rights, privileges and franchises shall by said deed or deeds, by said president and directors be so conveyed as to be by said mayor and city council, held and exercised as fully and completely as by said president and directors they could or might have been; and provided, fifthly, that any deed or deeds hereinbefore provided to be made by the said president and directors, shall contain a covenant that the mayor and city council of Baltimore shall have and be entitled to all the iron pipes, stop-cocks, and other fixtures or materials connected with the distribution of water through the city, that the president and directors aforesaid may possess, and to the benefit, at the option of said mayor and city council, of any contract or contracts that may by said president and directors have been made for or concerning the making or delivery of the same, previously to the day of the date of said last mentioned deed or deeds; and which deed or deeds shall also contain a further covenant that said mayor and city council shall be entitled to receive all water rents, and all other rents, tolls or revenues that may from and after the day of the date of said deed or deeds, be payable by, or accrue from all or any portion of the property hereby provided to be purchased and conveyed; and provided, sixthly, that the president and directors of the Baltimore Water Company shall, simultaneously with the delivery of the deed or deeds hereinbefore provided to be by them made, deliver to the said commissioners all such original accounts, books or manuscripts, or transcripts of the same, as to said commissioners and to the register of the city may seem necessary to aid in the collection of the rents, tolls, or revenues hereinbefore mentioned; and said president and directors shall, as aforesaid, deliver to said commissioners all such original deeds, plats, memoranda,

Fifthly.

Sixthly.

agreements, receipts, or other muniments of title now in possession of said president and directors, or transcripts of the same, properly attested, as may be illustrative or descriptive of all or any portion of the property hereby provided to be purchased and conveyed—said accounts, books, manuscripts, deeds, plats, memoranda, &c., to be deposited by said commissioners in the office of said register, to be by him kept as the property of the mayor and city council of Baltimore.

Ibid, s. 5. Income pledged for interest.

So much of the net annual rents and revenues of the property hereby provided to be purchased and conveyed, as shall amount to the sum of eighty-one thousand dollars, is hereby set apart and pledged for the payment of the half yearly interest that may from time to time become due, on account of the certificates of debt hereinbefore provided to be issued.

Ibid, s. 6. Relating to purchase of Eagle works.

Nothing in this ordinance contained shall be so construed as to interfere with or prevent the exercise by the president and directors of the Baltimore Water Company of any rights, privileges or franchises that may be now held or enjoyed by them under any act or acts of the general assembly of Maryland, or of any supplement or supplements thereto, in or to any of the property of the said president or directors not hereinbefore provided to be purchased and conveyed, save and except in and to the aforesaid property, known as the Eagle works, in this particular, that is to say: that it is and shall be taken as one of the express conditions of the acceptance of this ordinance by said president and directors, as hereinafter provided, that the said mayor and city council shall at any time within twelve months after said acceptance, be entitled to receive from said president and directors such conveyance of said property known as the Eagle works, as is hereinbefore required for the conveyance of any portion of the property hereby provided to be purchased and conveyed; and, in consideration of such conveyance of said Eagle works, said commissioners shall be and they are hereby authorized and directed to issue, and to deliver to said president and

directors such additional number of certificates of debt, similar to those hereinbefore provided to be issued, as shall represent a sum equal to the purchase money paid by said president and directors for said Eagle works; and for the payment of the half yearly interest that may accrue upon said additional certificates, so much of the net annual rents and revenues of the property hereinbefore provided to be purchased and conveyed as may be necessary therefor, shall be and is hereby set apart and pledged.

Ibid, s. 7. Duty of commissioners of finance.

The commissioners of finance, as provided for in the first section of this ordinance, shall and are hereby directed to review the estimate of the Baltimore Water Company as to the value of the property proposed to be purchased by this ordinance, and also that said commissioners shall confer with Theophilus E. Sickles, the engineer authorized by the mayor and city council of Baltimore to make further surveys, estimates, &c., and with a view to the introduction of a more abundant supply of pure water to the city, and obtain from him his views as to the practicability of the present water company's works working in connection with any of the streams he has been engaged in surveying, and that said commissioners shall make a full report, both as to the value of the Baltimore Water Company's property, and if any of said property is not essential to the introduction of a supply of water to the city, and present said report from the engineer as aforesaid to the mayor and city council of Baltimore, on the 11th of September, 1854.

Re-survey.

Ibid, s. 8. Acceptance.

Whenever the president and directors of the Baltimore Water Company shall, in writing, sealed with their corporate seal and signed by the president, have communicated to the mayor of the city their acceptance of the terms of this ordinance, then the said ordinance shall be of full force and virtue in law.

No. 68, Oct. 19, '55. Water stock to be issued.

The commissioners of finance are hereby authorized to issue ten thousand dollars of water stock, in certificates, as provided by above ordinance No. 80, 1854, being part of the

two millions stock, as authorized by the act of 1853, c. 376, and deliver the same to the register, who shall dispose of the same at not less than par, and place the proceeds thereof to the payment of the pipes as laid down by the present water department.

No. 20, s. 2, May 13, '56. Issue of water stock.

The commissioners of finance are hereby authorized and empowered to issue fifty thousand dollars of water stock, redeemable after the year 1875, bearing interest at the rate of six per centum per annum, payable semi-annually, on the first day of May and November, transferable as other city stocks are, and sell the same to the highest bidder; provided the same shall not be sold for less than the current price of other city stocks, after having given public notice, and place the proceeds in the hands of the register, to the credit of the water department.

Sold at current price.

Ibid, s. 3. Redemption of stock.

For the redemption of the stock to be issued in accordance with the preceding section, as also for the water stock heretofore issued, and such other as may hereafter be issued in accordance with the provisions of an act of assembly of 1853, c. 376, all the surplus arising from water rents, after paying the interest on water stock, and expenses of conducting and managing the water department, shall be paid over to the commissioners of finance, who shall invest the same in water or other city stock, at or below par, also all interest they may from time to time receive thereon; and the said commissioners shall have the transfer made in their name, in trust for the water department, and keep a separate account therefor, and make an annual report of all receipts and disbursements on account of stock, and exhibit the certificates thereof to the committee on their accounts; and the faith of the city is hereby pledged that the said stock so invested as a sinking fund, shall in no case be sold, exchanged, or in any way alienated, except for the redemption of said water stock.

Surplus invest in water or other city stock

Ibid, s. 4. Tax of one-half of one per cent.

There shall be annually levied, for and during the space of twenty years, or for such time as may be necessary for the redemption of the amount of stock authorized to be levied by

the act of assembly cited in the preceding section, a special tax of one-half of one per cent. on every hundred dollars' worth of assessable property in the city, collections of which tax shall monthly be paid over by the register to the commissioners of finance, who shall invest the same, and report and exhibit, as provided for in the preceding section.

No. 32, s. 2, June 25, '56. Commissioners of finance to issue water stock.

The commissioners of finance are hereby authorized and empowered to issue ten thousand dollars of water stock, redeemable after the year 1875, bearing interest at the rate of six per cent. per annum, payable semi-annually, on the first of May and November, transferable as other city stocks are, and sell the same to the highest bidder, at not less than the market price of city stock, after having given public notice, and place the proceeds in the hands of the register to the credit of the water department.

No. 40, s. 1, July 17, '56. Water board.

The water board of the city of Baltimore are hereby authorized and directed to carry into effect the plan of introducing a further supply of water into this city, recommended in a report of the joint special committee on water, made to the city council of Baltimore June 30, 1856, which plan is as

Woodbury dam.

follows, that is to say: the water to be taken from Woodbury dam or Jones' falls, at one hundred and sixty-eight feet above tide, and conveyed by a pipe or pipes to reservoirs, to be located in the bed of Stony run at elevations of not less than one hundred and fifty-seven, and one hundred and thirty feet

Cost of pipe.

above tide, respectively. The cost of pipe, including dam at Woodbury, is estimated at one hundred and twenty thousand dollars, the reservoir at an elevation of one hundred and sixty-five or one hundred and fifty-seven feet, estimated at ninety-four thousand five hundred and sixty-three dollars; the reservoir at one hundred and thirty feet elevation, estimated at seventy thousand seven hundred and seventy dollars; to provide for contingencies, twenty-eight thousand five hundred and thirty-three dollars; connections with the present city net work, seventy-nine thousand nine hundred and ten

Paradise mill.

dollars; the water to be taken from Paradise mill dam on

Stony run, at two hundred and thirty-seven feet above tide, and conveyed to a reservoir at two hundred and thirty feet elevation; estimate cost of reservoir twenty-five thousand dollars; purchase of pipe necessary to convey water from two hundred and thirty feet reservoir to Rose hill, fifty thousand dollars; and for the purpose of carrying into effect the powers herein granted to said board, they are constituted and appointed the agents of the mayor and city council of Baltimore, and are hereby vested with all the authority in regard to the purchase or condemnation of necessary materials, land and water rights, granted to the said mayor and city council by virtue of the provisions of an act of assembly, 1853, c. 376, such purchases or condemnation to be in the name and for the use of the said mayor and city council of Baltimore, and the said water board shall have power to adopt and carry into effect suitable plans for the construction of the works necessary for the introduction of the waters of Jones' falls and Stony run, agreeably to the plan stated above, and to contract with and employ contractors, engineers and other persons, whose services they may deem to be necessary for the construction and superintendence of any of said works, and they shall require bonds, with satisfactory security to be given in all cases, where they may deem the same necessary to protect the interests of the city.[1]

Rose hill.

Jones' falls and Stony run.

[1] Ord. No. 3, Jan. 30, '57, enacted: that so much of the plan of introducing water into the city as recommended in a report of the joint special committee on water made to the city council of Baltimore on the 30th day of June, 1856, as regards Stony run, be hereby repealed; and that so much of the above ordinance as adopts the plan of the introduction of water into the city by way of Stony run, or makes provision for the purchase or condemnation of land, water or water rights, or the erection of reservoirs on Stony run, or appropriates money for any of said objects, be and the same are hereby repealed, saving only such sums as have been already paid or contracted for by the board of water commissioners under said provisions. That the city counsellor be requested to oppose and resist the confirmation of any and all inquisitions which may heretofore have been had upon any land, water or water rights on Stony run, and which have or may hereafter be returned by the sheriff of Baltimore county to the Circuit Court of said county. See *Graff* v. *Mayor, &c.*, 10 Md. 544.

Ibid, s. 2. Making contracts.

In making any contracts for land or water rights, or for work and material, said contracts when the sum involved is large, shall be in writing, and approved by the city counsellor as to form, and may be verbal when for small sums, and pub-

Public notice.

lic notice shall be given in two or more daily papers published in the city of Baltimore, of the time and place at which sealed proposals will be received for entering into contracts, and no more than one proposition shall be received from any one person or firm for the same contract, and all propositions of the person or firm offering more than one shall be rejected; all sealed proposals for contracts shall be for a sum certain as to the price to be paid or received, and no proposition which is not thus definite and certain, or which contains any alternative, condition or limitation, shall be received or acted on by the board.

Ibid, s. 3. Not to exceed what amount.

Said water board shall not, under the penalty of individual liability for any amount exceeding the sum herein appropriated, enter into contracts or engagements for lands, water rights, materials, work, or any other account herein authorized, to an amount exceeding in the aggregate the sum of eight hundred thousand dollars, of which not more than two hundred and fify-five thousand dollars shall be expended for land and water rights on Jones' falls, or more than seventy thousand dollars for land and water rights on Stony run; said water rights on Stony run to include all between its confluence with Jones' falls, up to and including the Paradise mill property, or so much thereof as may be necessary, and in all their contracts and agreements the said board shall conform as nearly as may be practicable, to the estimates made in the report of the joint special committee on water, as embodied in the first section of this ordinance.

Ibid, s. 4. Commissioners of finance to issue stock.

The commissioners of finance are hereby authorized and directed to cause to be prepared and issued, from time to time, upon the order of the water board, certificates of debt of the city, to be denominated on the face of each certificate "Baltimore water stock," said certificates to be in like form

and payable at the same time as the certificates heretofore issued by the city for the purchase of the property of the Baltimore water company; or to sell said certificates at not less than par, and apply the proceeds upon the order of the water board, on being satisfied that said certificates or proceeds of sale thereof are required for the purpose of carrying into effect the provisions of this ordinance; provided, that the amount of certificates of debt so to be issued shall not exceed in the aggregate the sum of five hundred and eighty thousand dollars.

Not to exceed what amount.

If the sum derived from the certificates of debt or sales thereof, under the provisions of the preceding section, be insufficient to accomplish the objects herein required, the deficiency shall be provided for by a sale of such of the property purchased of the Baltimore water company as may be no longer necessary; and the commissioners of finance are hereby authorized to make such sale of said property, or any part thereof, at such time and in such manner as they may deem most expedient, and apply the proceeds thereof or so much as may be required, in order to effect the purposes of this ordinance.

Ibid, s. 5. Sale of property.

Reports shall be made on the first Wednesday of each month to the mayor by the said water board; verified by the oaths of the members of said board, giving a detailed statement of their proceedings under this ordinance, and showing the amount of each expenditure incurred, for what purpose, and to whom the payments were made.

Ibid, s. 6. Monthly reports to be made.

The said water board shall take charge of and preserve all the property required under the provisions of this ordinance; and said board shall be charged with the management and repairs of the water works (to be erected under the authority hereinbefore given, in the same manner as they are now authorized in regard to the water works,) and other property now owned by the city of Baltimore.

Ibid, s. 7. Water board to take charge of property.

No. 33, s. 2, April 27, '57. Sale of water stock.

The commissioners of finance are hereby authorized and empowered to issue ten thousand dollars water stock, redeemable after the year 1875, bearing interest at the rate of six per cent. per annum, payable semi-annually, on the first day of May and November in each and every year, transferable as other city stocks are, and sell the same to the highest bidder, at not less than the market price of city stock, after having given public notice, and place the proceeds in the hands of the register, to the credit of the water department.

No. 52, s. 1, July 7, '57. Commissioners of finance to issue and sell six per cent water stock.

The commissioners of finance are hereby empowered and directed to issue and sell so much city six per cent. water stock as may be necessary to replace in the city treasury the sum of thirty-two thousand dollars advanced by the city register, and paid into the Circuit court for Baltimore city, under the order of said court in that behalf, in the case depending in said court of the mayor and city council *vs.* Samuel D. Tonge, James and Hugh Birckhead, Daniel Warfield, Jackson B. Baxley, Reverdy Johnson, Samuel H. Tagart, Thomas Sparks, and Charles Slack, and that they pay over the said money so raised to the city register.

No. 53, July 11, '57. Plan for the introduction of water into the city.

The board of water commissioners are hereby authorized and directed to adopt the plan heretofore reported to the council by James Slade, civil engineer, and now on file in the office of the city register, for the introduction of water into the city of Baltimore from Jones' falls, by natural flow from a reservoir to be constructed at or near the Relay house, on the Northern Central railroad—with such modifications as are rendered necessary by reason of the abandonment on the part of the city of the Stony run property.

Ibid, s. 2. Land and water rights to be purchased.

Said water commissioners are hereby authorized to purchase such additional land and water rights as may be required to carry out the objects of this ordinance, or to resort to condemnation, should they deem it advisable so to do.

Ibid, s. 3. Mayor to procure from legislature power to extend water loan.

In order to carry out the plans and purposes herein contemplated, the mayor is hereby authorized and instructed to procure from the legislature of Maryland, at its next session, the necessary power to extend the water loan authorized by an act of 1853, c. 376, from its present limit to three millions of dollars,[1] and to issue the bonds of the city, based upon said credit, to be used by said water board in furtherance of the objects of the said board; said bonds to be disposed of at not less than their par value, in payment of work contracted to be done or materials furnished, or for lands or water rights obtained in pursuance of the provisions of this ordinance, or in such manner and upon such terms as the commissioners of finance, in connection with said water board, may hereafter determine and may deem to be most advantageous to the city.

To issue bonds.

How to be disposed of.

Ibid, s. 4. How to enter upon construction of work.

The said water board shall have full power and authority to enter upon the construction of said work at such time as they may deem most advantageous, and to employ such engineering aid, and to allow such compensation therefor as is just and reasonable and usual in such cases.

Ibid, s. 5. Property at disposal of the water board.

All property now in possession of the city and acquired by purchase from the old water company and unsold, is hereby placed at the disposal of the said water board as part of the fund for defraying the cost of the improvement herein contemplated, to be disposed of by them at such times, in such manner, and upon such terms as they may deem most advisable; provided, that a sufficient amount of the proceeds of the sale of said property be set apart for the payment of interest during the progress of the work.

Proviso.

[1] 1858, c. 38, provided that for the purpose of extending and increasing the supply of water for the city of Baltimore, the mayor and city council of Baltimore shall have authority, in the name of said city, to issue certificates of debt, to be denominated "water stock," to an amount not exceeding one million of dollars, in addition to the amount granted in the act of 1853, c. 376, s. 3; said certificates to bear 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 provision as the mayor and city council may deem expedient and proper.

Ibid, s. 6. Water rates.

In order to meet the interest upon the capital proposed to be invested in said improvements for the introduction of water into the city of Baltimore, when the whole work shall have been completed, it shall be the duty of the said board of water commissioners to adopt and enforce such system and standard of water rates as they may deem fair and reasonable, to relieve the treasury of the city from any direct tax for the cost of introducing said increase of water.

No. 65, s. 2, Oct. 21, '57. Commissioners of finance to issue stock.

The commissioners of finance are hereby authorized and empowered to issue five thousand dollars of water stock, in addition to the amount authorized to be issued by ordinance (hereinbefore,) No. 33, approved April 27, 1857, redeemable after the year 1875, bearing interest at the rate of six per cent. per annum, payable semi-annually, on the first day of May and November in each and every year, transferable as other city stocks are, and sell the same to the highest bidder, at not less than the market price of city stock, after having given public notice, and place the proceeds in the hands of the register, to the credit of the water department; provided, the new board of water commissioners shall deem the execution of this ordinance expedient.

No. 20, Ap'l 23, '60. Commissioners of water board to issue notes to complete works

The commissioners of the water board are hereby authorized to issue their notes for a period not exceeding two years, for such amount as may be required to complete the works now in progress of construction, and to connect the same with the system of pipes within the city limits, to an amount not exceeding three hundred and fifty thousand dollars, or so much thereof as may be needed; and that so soon as the real estate applicable to said works, and heretofore placed at the disposal of said board by an ordinance of the mayor and city council shall have been disposed of, the same shall be held or invested in city stock, at the pleasure of said board, to be applied to the liquidation of said notes at maturity—and any deficiency which may appear on the sale of said property, shall be provided for from the revenue arising from said works, or in such manner as the mayor and city council may

Amount.

hereafter direct, and the credit of the said city is hereby pledged for the prompt liquidation of both principal and interest of said notes at maturity. Pledge of city credit.

In lieu of the amount heretofore authorized to be issued in the notes of the city having two years to run, say $350,000, for the completion of the water works, the commissioners of finance are hereby authorized to substitute bonds, similar to those heretofore authorized for the construction of said water works, and known as the water loan, to the extent of the authority given by above ordinance No. 20, April 25, 1860, for the construction of the new water works; and said commissioners are authorized to exchange the bonds hereby authorized to be issued, for any notes issued under said ordinance. No. 63, July 23, '60. Bonds for water works.

The water board is hereby authorized to sell at public or private sale, as the said board may think best, so much of the land property and other effects as have been acquired by the city for the establishment of the water works, as may not be needed for the use of said works. No. 42, s. 1, May 7, '61. To sell land.

The water board is authorized and directed to issue notes not exceeding at any time the sum of one hundred thousand dollars, or so much thereof as may be necessary, to complete said water works, the notes to be in such form and payable at such time, not exceeding two years from their date, as the water board may direct; provided, the interest on said notes shall be paid semi-annually, on the first day of January and July. Ibid, s. 2. Issue notes. Amount.

The proceeds of the property, directed to be sold by the first section of this ordinance, are hereby pledged for the payment of said notes, and interest thereon, as they respectively become due, and in case the said proceeds of sale shall not be relized in time, or shall not suffice to pay said notes and interest as they respectively become due, the revenues arising from said water works are hereby pledged and appro- Ibid, s. 3. Property pledged. Revenue pledged.

priated for the payment thereof, subject to the provisions of ordinance No. 80, July 29, 1854, (hereinbefore.)

No. 63, Aug. 1, '61. Bonds to be issued for water board.

The mayor and register of the city are hereby authorized and required to issue bonds of the city not exceeding in amount one hundred and fifty thousand dollars, to enable the water board to complete the works under their charge now in the course of construction; and the commissioners of finance are authorized and directed to sell or dispose of the same for the said purpose, in such amounts, and on such terms, from time to time, as may be practicable, and in their judgment advisible for the interest of the city and with assent of the mayor.

No. 10, s. 12, March 27. '62. Pay over daily to city register.

It shall be the duty of the water registrar to pay over daily to the city register each and every sum of money received by him on account of rents or other dues of the said water department.

Ibid, s. 12. Register to open account in bank

And the register is hereby authorized and directed to open an account in such bank as the commissioners of finance may direct, where all moneys received by the water department shall be deposited; the fund so deposited to be withdrawn from said bank, as may be required to pay the expenses incurred by the water board; and on or before the first day of May and November in each year, a sum sufficient to pay the interest on the water stock debt of the city; and after said expenses and the interest on the water stock shall have been paid, the surplus shall be applied on the first day of May and November in each year to the sinking fund of the water stock.

Payment of interest.

Sinking fund.

Ibid, s. 12. Checks, &c.

And no funds shall at any time be drawn from the register, unless duly authorized by the water board, and recorded on the journal; all checks, drafts, or orders on the register, so ordered by the water board, shall be signed by the president and secretary of the board.

Ibid, s. 12. Monthly payments.

All claims upon the board shall be paid monthly, and no payments shall be made unless the bill or claim be certified by the officer or other person duly authorized to make an

agreement or contract for the water board, and all payments shall be ordered by the board, and the order recorded on its journals.

No. 59, s. 1, Aug. 27, '63. Additional reservoirs.

The board of water commissioners is hereby authorized and empowered to proceed, with as little delay as possible, to the construction of one or more additional reservoirs for the supply of the city with water, with full power to do and perform all things necessary in accordance with the laws of the State and the ordinances of the city relating to supplying the city of Baltimore with water from Jones' falls.[1]

Ibid, s. 2. Commissioners of finance to issue stock.

In order to meet the disbursements required by this ordinance, the commissioners of finance are hereby authorized and directed to issue bonds of the city of Baltimore to the amount of three hundred thousand dollars, or so much thereof as may be needed from time to time, bearing interest at the rate of six per centum per annum, payable half yearly on the first day of May and the first day of November in each and every year, and redeemable at any time, at the pleasure of the city, after the first day of July, 1872; dispose of the same at market price, and deposit the proceeds with the city register, subject to the order of the board of water commissioners, and should the bonds command a premium, the register shall set aside said premium to be added to the sinking fund hereinafter provided for, and from and after the passage of this ordinance there shall be annually levied six cents on every hundred dollars worth of assessable property in the city of Baltimore for the payment of the interest and to constitute a sinking fund, of which the register shall be the trustee, for the redemption of the debt hereby created, said levy to cease as soon as a sufficient sum has been thus realized to pay the principal and interest of the bonds authorized to be issued as aforesaid, and all expenses attending the same.

Sell at market price.

Deposit with register.

Sinking fund.

Six cents annual levy.

Redemption of debt.

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[1] This ordinance recites sec. 866 of Art. 4, P. L. L. (sec. 1, p. 713, *ante*.)

No. 7. Feb. 12, '64. Issue. The bonds issued for the construction of the new reservoir, as provided for in above ordinance No. 59, August 27, 1863, shall be redeemable at any time at the pleasure of the city after the first day of July, 1875, and from this date there shall be annually levied three cents on every hundred dollars of assessable property in the city of Baltimore, for the payment Sinking fund. of the interest and constitute a sinking fund for the payment of the bonds authorized by said ordinance.

No. 51, June 28, '65. Bonds to be issued. In order to meet the disbursements required by ordinance No. 59, August 27, 1863, the commissioners of finance are hereby authorized and directed to issue bonds of the city of Baltimore to the amount of one hundred thousand dollars, or so much thereof as may be needed, bearing interest at the rate of six per centum per annum, payable half yearly on the first day of May and the first day of November in each and every year, and redeemable at any time at the pleasure of the city after the first day of May, 1875, dispose of the same at not less than their par value, deposit the same with the city register, subject to the order of the board of water commissioners; and should the bonds command a premium, the register shall set aside said premium, to be added to the sinking fund provided for in said ordinance, and the interest on the bonds hereby authorized to be issued shall be paid out of the levy provided in said ordinance.

No. 1, s. 1, Feb. 1, '63. Lands and water rights. The commissioners of the water board are hereby authorized and empowered to purchase the necessary lands, water rights and property that may be required for an increased supply of water for the use of the city of Baltimore, if such lands and water rights can be purchased, at such prices and upon such terms as the water board may deem just and reasonable.

Ibid, s. 2. Bonds for water stock. The commissioners of finance are hereby authorized and directed to issue bonds of the city of Baltimore, as provided in Public Local Laws, article 4, section 939,[1] to be denomi-

[1] See Water, *post*, and note, p. 742, *ante*.

nated on their face "Baltimore water stock," to the amount of one hundred and forty-five thousand dollars, or so much thereof as may be necessary, bearing interest at six per cent. per annum, payable half yearly, on the first day of May and November in each year, redeemable at any time after the year 1875, and apply the proceeds to the payment of said lands, water rights and property.

Ibid, s. 3. Levy water tax.

There shall be levied annually two cents on every hundred dollars of assessable property in addition to the sum levied by the provisions of ordinance No. 59, 1863, the proceeds of said levy, and the premium on the sales of the water stock, hereby authorized to be issued, to be applied to the payment of interest, and to the sinking fund as provided in section 2, of ordinance No. 59, of 1863, (hereinbefore.)

Ibid, s. 4. Water board empowered to sell surplus lands.

In the event of the water board making the purchases as herein provided, and in case more land and property may be included, than may be required for an ample supply of water to the city, for domestic, mechanical, manufacturing, sanitary and other purposes, than the said water board are hereby authorized and empowered to sell such surplus land or other property, and pay over the proceeds to the commissioners of finance, to be applied to the redemption of the debt hereby created.[1]

No. 33, Ap'l 19, '66. Issue of bonds.

In order to meet the disbursements required by ordinance No. 59, August 27, 1863, the commissioners of finance

[1] Ord. No. 28, April 5, '66, recites, that the mayor and city council, by an ordinance approved February 1, 1866, authorized the commissioners of the water board to purchase lands, water rights and property that may be required for an increased supply of water for the use of the city of Baltimore; and that the said commissioners have purchased certain water rights, lands and other property in the Great Falls of the Gunpowder; therefore, it enacts that the sale and conveyance to the city of Baltimore by Edward Patterson, jr., Samuel Smith Patterson and Robert Patterson, by their deed, dated February 6, 1866; also the sale and conveyance made by Eliza George, widow, and others, her children, by their deed, dated February 9, 1866; and also the sale and conveyance made by the Gunpowder Copper Works, by its deed, made February 8, 1866, be and the same are hereby approved and confirmed by the mayor and city council of Baltimore.

Amount.

are authorized and directed to issue bonds of the city of Baltimore to the amount of one hundred and fifty thousand dollars, bearing interest at the rate of six per centum per annum, payable half yearly, on the first day of May and the first day of November in each and every year, and redeemable at any time at the pleasure of the city after the first day of May, 1875; dispose of the same and deposit the proceeds with the city register, subject to the order of the board of water commissioners; and should the bonds command a premium, the register shall set aside said premium, to be added to the sinking fund provided for in said ordinance No. 59, and the interest on the bonds hereby authorized to be issued, shall be paid out of the levy provided in said ordinance.

No. 83, s. 1, Oct. 3, '66.
To capitalize stock.

The commissioners of finance are hereby authorized and empowered to issue one hundred and fifty thousand dollars of water stock, (for the purpose of capitalizing that amount expended for the extension of waters mains,) redeemable after the year 1875, bearing interest at the rate of six per centum, payable semi-annually on the first day of May and November, and transferable as other city stocks are, and sell the same at not less than the current price of other city stocks, the proceeds of the same to be placed to the credit of the water board.

No. 5, Feb. 23, '67.
Additional lands and water rights.

The commissioners of the water board are hereby authorized and empowered to purchase any additional and necessary lands, water rights and property that may be required for an increased supply of water for the use of the city of Baltimore, if such lands and water rights can be purchased at such prices and upon such terms as the water board may deem just and reasonable; provided the sum paid for the same does not exceed the sum of one hundred and twenty thousand dollars.

Proviso.

Ibid, s. 2.
Bonds.

The commissioners of finance are hereby authorized and directed to issue bonds of the city of Baltimore, as provided in Public Local Laws, article 4, section 939,[1] to be denomi-

[1] See Water, *post* and note, p. 742, *ante*.

nated on their face "Baltimore water stock," to the amount of one hundred and twenty thousand dollars, or so much thereof as may be necessary, bearing interest at six per cent. per annum, payable half yearly, on the first day of May and November in each year, redeemable at any time after the year 1875, and apply the same, or the proceeds thereof, under the direction of the water board, to the payment of said lands, water rights and property. Amount.

There shall be levied annually two cents on every hundred dollars of assessable property, in addition to the sum levied by the provisions of ordinance No. 59, 1863, (hereinbefore,) the proceeds of said levy, and the premium on the sales of the water stock hereby authorized to be issued, to be applied to the payment of interest and to the sinking fund, as provided in section 2 of ordinance No. 59, 1863. Ibid, s. 3. Tax levied. How applied.

The board of water commissioners is hereby authorized and empowered to lay a ten inch water main from the corner of Montgomery and Hanover streets, by way of Fort avenue, to Locust Point.[1] No. 31, s. 1, May 4, '67. To lay ten inch main.

In order to meet the disbursements required by this ordinance, the commissioners of finance are hereby authorized and directed to issue bonds of the city of Baltimore to the amount of twenty-five thousand dollars, or so much thereof as may be needed from time to time, bearing interest at the rate of six per centum per annum, payable half yearly on the first day of May and the first day of November in each and every year, and redeemable at any time at the pleasure of the city after the first day of July, 1875, dispose of the same at market price, and deposit the proceeds with the city register, subject to the order of the board of water commissioners, and should the bonds command a premium, the finance commissioners shall set aside said premium to be added to the water stock sinking fund No. 2, and there shall be annually levied one half cent on every hundred dollars worth of assessable Ibid, s. 2. Bonds. Amount To sell at market price. Tax levied.

[1] This ordinance recites sec. 866 of art. 4, P. L. L. (sec. 1, p. 713, *ante*.)

property in the city of Baltimore, for the payment of the interest, and to constitute a sinking fund, of which the commissioners of finance shall be the trustees, for the redemption of the debt hereby created; said levy to cease as soon as a sufficient sum has been realized to pay the principal and interest of the bonds authorized to be issued as aforesaid, and all expenses attending the same.

No. 37, May 15, '67.
To issue bonds to meet disbursements of water board.

In order to meet the disbursements required by ordinance No. 59, August 27th, 1863, the commissioners of finance are authorized and directed to issue bonds of the city of Baltimore, to the amount of one hundred and fifty thousand dollars, bearing interest at the rate of six per centum per annum, payable half yearly, on the first day of May and the first day of November in each and every year, and redeemable at any time at the pleasure of the city, after the first day of May, 1875, dispose of the same and deposit the proceeds with the city register, subject to the order of the board of water commissioners; and should the bonds command a premium, the register shall set aside said premium to be added to the sinking fund provided for in said ordinance No. 59, and the interest on the bonds hereby authorized to be issued, shall be paid out of the levy provided in said ordinance.

LOANS, ENDORSEMENTS, GUARANTIES, &c.

35. BALTIMORE AND OHIO RAILROAD.

No. 37, s. 1, April 26, '36.
Subscription to the stock of the Baltimore and Ohio Railroad Company.

Whenever the president and directors of the Baltimore and Ohio Railroad Company, at any time previous to the first day of October, 1836, shall have shown to the satisfaction of the mayor and the presidents of the first and second branches of the city council, that it is in the power of said company to comply with the condition on which the city of Baltimore has lately proposed to make a subscription of three millions of dollars to the stock of said company; and the said mayor and presidents shall have filed with the register, a certificate thereof under

their signatures, in the words following, viz: We do hereby certify, that in our opinion, there no longer exists any legal obstacles which can prevent the Baltimore and Ohio Railroad Company from completing their railroad in an unbroken line, from the city of Baltimore to the western waters; and the said president and directors shall by authentic act have signified to the mayor, whether it is their intention to receive a subscription on the part of the city for all, and if not for all, for what proportion of the said three millions of dollars, the said subscription for all of the said three millions, or for such part as the said president and directors may elect to receive a subscription for to be paid in instalments of not more than one million of dollars in any one year, that then the mayor is hereby authorized and directed to subscribe in the name of the mayor and city council of Baltimore to the capital stock of the Baltimore and Ohio Railroad Company the said three millions of dollars, or such part thereof as the said president and directors may have elected to take.[1]

Certificates of the mayor and presidents to be returned to the register.

The commissioners of finance are hereby authorized and directed to borrow on the credit of the city of Baltimore, the sum of money necessary to meet the payments of the instalments aforesaid, for which purpose a city stock shall be created not exceeding three millions of dollars, bearing an interest of six per cent. payable quarterly, and irredeemable before the first day of July, in the year 1890.

Ibid, s. 2. Six per cent. city stock created, redeemable in 1890.

There shall annually hereafter be levied upon the assessable property within the limits of the city of Baltimore, a sum of money which, with the profits of the said railroad, shall be sufficient to pay the interest upon the debt hereby authorized.

Ibid, s. 3. Tax for payment of interest

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[1] Res. No. 40, March 17, '36, authorized and directed the mayor to subscribe to the capital stock of the Baltimore and Ohio Railroad Company, the sum of three millions of dollars, in the name of the mayor and city council of Baltimore; provided, that the whole sum shall be exclusively applied to the prosecution of the work in an unbroken line from Harper's Ferry, or such point near that place as shall be selected, from which the extension shall be made.

Ibid, s. 4. Directors appointed.

At the first meeting of the city council after the annual election of the president and directors of the Baltimore and Ohio Railroad Company, which shall succeed the said subscription by the mayor, there shall be appointed by the joint ballot of both branches of the city council in convention assembled, one director in said company for every five thousand shares which may have been so subscribed. And there shall annually thereafter in the month of January in each and every year be appointed by a convention as aforesaid, the same number of directors, who shall continue in office until a new appointment be made.[1]

Ibid, s. 5. Vacancies.

In case of death or resignation of the said directors, or either of them, in the recess of the council, the mayor is hereby authorized to appoint a director or directors, as the case may be, who shall serve until a new appointment be made.

No. 25, Feb. 23, '38. City railroad directors to represent city stock.

The directors on the part of the city for the time being, in the Baltimore and Ohio railroad, are hereby authorized and directed, to represent the interests and vote the stock of the city of Baltimore, at all general meetings[2] of the stockholders of said railroad company which may hereafter be held.

Res. No. 147, May 20, '53. Dividend stock.

The register and commissioners of finance are hereby empowered and directed to vote the shares held by the city, whenever a vote is taken by shares by the Baltimore and

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[1] By ord. No. 59, Sept. 13, '67, seventy-five hundred shares of the capital stock of the Baltimore and Ohio Railroad Company, held by the mayor and city council of Baltimore, were placed at the disposal of the commissioners of finance, to be used at their discretion, by sale or hypothecation, for the purpose of providing for any deficiency in the revenues of the city to meet its liabilities during that year; not more than twenty-five hundred shares of said stock to be sold. Res. No. 61, April 1, '64, authorized the sale of 5,500 shares. Ord. No. 15, April 28, '65, authorized the sale of 5,000 shares. *Mayor, &c.* v. *B. & O. R. R. Co.*, 21 Md., 52.

[2] 1858, c. 313, provided that the directors of the Baltimore and Ohio Railroad Company shall be chosen annually on the third Monday of November in every year, in the city of Baltimore; and that the general meeting of the stockholders of said company to be held annually, shall be held at the time and place herein appointed for the election of the said directors.

Ohio Railroad Company, whatsoever way they may deem it to the interest of the city.[1]

No. 5, s. 1, Dec. 27, '53. Stock issued to aid the Balto. & Ohio railroad.

Whenever the Baltimore and Ohio Railroad Company, by their officers legally authorized to act on their behalf in such matters, shall signify in writing, sealed with their corporate seal, their acceptance of the terms and provisions of this ordinance, and shall, at the same time, deposit with the register of the city a mortgage (to be previously approved by the city counsellor,) wherein said company shall pledge all their real and personal estate, road or roads, the tolls and revenues, as security to the mayor and city council of Baltimore, for the payment, as hereinafter provided, of the principal and of the interest of the loan hereby made, it shall be the duty of the commissioners of finance of the city of Baltimore, and they are hereby authorized to issue certificates of stock of the mayor and city council of Baltimore, with coupons or otherwise, in their discretion, to the amount of five million of dollars, redeemable on the first day of January, 1890; the interest payable quarterly on the first days of January, April, July and October in each year; the said commissioners likewise to use their discretion, whether to issue five per cent. sterling bonds, payable in London, or six per cent. currency, payable in the city of Baltimore, and shall proceed to sell the said bonds or certificates on the best terms which they can obtain therefor, not less than par, and in such sums as may be required by said railroad company, and pay over the proceeds thereof to the register of the city; and it is hereby understood and provided, that if the commissioners of finance shall, at any time, elect to issue five per cent. sterling bonds, as aforesaid, the cost of exchange, commission to agent in London, and all other expenses incidental to such payment,

Mortgage.

Amount of issue.

Sterling bonds currency.

Bonds to be sold at not less than par.

How expenses to be paid.

[1] This Res. recites that, heretofore the stock held by the city in the Baltimore and Ohio railroad, known as "dividend stock," has been unrepresented in the selection of stockholders' directors; and also that circumstances may arise to make it necessary and proper to vote said stock for the acceptance or rejection of amendments to the charter of said road, &c.

shall be chargeable to and paid by the president and directors of the Baltimore and Ohio Railroad Company aforesaid; and it is hereby further provided, that any and all expenses incident to the issue of any of the bonds, whether currency or sterling, as aforesaid, shall in like manner be chargeable to and paid by the said railroad company.

Ibid, s. 2. Register to pay over proceeds.

The city register is hereby authorized to pay to the Baltimore and Ohio Railroad Company the amount of money he may receive from time to time from the commissioners of finance, on account of the sale of said certificates, reserving ten per cent. thereof to be used as a sinking fund to pay the principal of said loan at maturity.

Ibid, s. 3. Sinking fund.

The said reservation of ten per cent., amounting to five hundred thousand dollars, shall, by the register of the city of Baltimore, with the quarterly interest thereon, be invested in the public debt of the city of Baltimore, and so from time to time, until the maturity of the bonds, when so much thereof as may be necessary shall be applied to the payment of the principal sum of said bonds, and to release the said company from all responsibility for the mortgage herein created, in so far as said sinking fund may be capable of paying the same;

Mortgage to be recorded.

and said mortgage as mentioned to be given by the said Baltimore and Ohio Railroad Company in section first of this ordinance, shall be recorded under direction of the city register, and at the expense of the said company, in the proper offices of record where such instruments are recorded, in all counties, districts, cities or towns, whether in the State of Maryland or out of it, wherein said company have any real or personal estate, road or roads, tolls or revenues, as mentioned in the first section of this ordinance.

Ibid, s. 4. Surplus of sinking fund, how appropriated.

If at the maturity of said bonds the said sinking fund shall have accumulated to an amount exceeding the principal sum of the loan authorized in this ordinance of five millions of dollars, the said excess shall be paid into the city treasury for the use of the city, and be applied to the extinguishing the internal improvement debt.

The premium (if any) that may be received on account of the sale of the said certificates or bonds shall be converted into a sinking fund and invested in the public debt of the city of Baltimore, and so from time to time, with the interest quarterly accruing, to be applied to the payment of the original internal improvement debt of the city. Ibid, s. 5. Premium, how appropriated.

The acceptance of this ordinance by the said company, and the mortgage required to be given by said company, shall be construed and understood as obligating the said company to pay to the said register the principal sum of five million dollars, issued under the provisions of this ordinance, less the amount of the sinking fund, and its accumulations, mentioned in the third section of this ordinance, at least one month before the day on which the certificates or bonds hereby directed to be issued, shall become redeemable, and shall also pay to the said register interest at the rate of six per cent. per annum, on the whole amount of said certificates or bonds so issued, quarterly and in advance, at least ten days previous to the first day of the several months aforesaid on currency bonds, and thirty days previous to aforesaid first day on sterling bonds, which said payments shall commence to be made in advance of the first payments of interest, which shall be required to be made by the mayor and city council of Baltimore on said certificates or bonds, and shall continue to be made as aforesaid until the repayment by the said company to the mayor and city council of Baltimore, of the principal sums of money which shall or may be issued as aforesaid. Ibid, s. 6. Principal, how paid at maturity. Interest, how to be provided and when.

The said register shall procure a stamp, with the words "safety fund stock—not to be re-issued," legibly cut thereon, and shall cause the same to be fairly impressed across the face of each certificate of Baltimore city stock invested as aforesaid, and cause an entry of the said certificates to be made in the books of his office from time to time, as the same may come into his possession, and shall make an exhibit of the said entries and certificates to the committee annually appointed to examine the books and accounts of his office, which com- Ibid, s. 7. Duty of register.

mittee shall make such examination a part of their report to the city council, stating the amount of said certificates, and general condition of said safety fund.

Ibid, s. 8. Register may borrow money.

In order to meet the present exigencies of the Baltimore and Ohio Railroad Company, when the legislature of Maryland shall have confirmed this ordinance, the register is hereby authorized to borrow upon the faith of the mayor and city council of Baltimore the sum of one million of dollars, redeemable at pleasure, bearing interest at the rate of six per cent. per annum, payable quarterly, and pay the same to the said company. And upon his receiving the amount of sales of the certificates as provided for in this ordinance, he shall repay the city, with the interest accrued thereon, from said amount of sales, in lieu in paying them over to said company.

Ibid, s. 9. Ordinance repealed.

The ordinance entitled an ordinance to guarantee the bonds of the Baltimore and Ohio Railroad Company, approved December 14, 1853, is hereby repealed.

Ibid, s. 10. Confirmatory act required.

This ordinance shall have no effect until confirmed by the next general assembly of Maryland.[1]

No. 47, s. 1, Sept. 23, '58. Register to invest interest on account of sinking fund.

In the performance of the duties imposed upon the register of the said city by the third section of the ordinance to which this is a supplement, (ord. No. 5, Dec. 27, 1853,) the said register shall, within thirty days after the receipt by him

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[1] 1854, c. 34, provided that the above ordinance be hereby confirmed, and that full power be hereby conferred upon the mayor and city council of Baltimore, and upon the commissioners of finance and the register of the city of Baltimore, to carry into effect all the provisions of the said ordinance, in the same manner, to all intents and purposes, as if the said mayor and city council had been previously to the passage of said ordinance, authorized and empowered by an act of the general assembly to enact an ordinance in the precise terms of the above ordinance, and to provide for carrying the same into effect.

That nothing in this act or in the said ordinance contained, shall be taken or construed to impair or lessen in any manner the liens or securities which the State of Maryland has in the revenue of the said Baltimore and Ohio Railroad Company, for loans heretofore made by the said State to the said company or for the interest now due or that may become due thereon, to the said State.

of any interest on account of the sinking fund provided for in the said ordinance, invest the same as therein directed in the public debt of the city aforesaid.

Ibid, s. 2. Register not to use interest except for public debt.

It shall not be lawful for the said register to use any portion of said interest so received by him for any other purpose than the purchase of the public debt aforesaid during the period that said interest may remain in his possession.

Ibid, s. 3. Interest money to be deposited in separate book.

To prevent as far as practicable, even the accidental employment of any portion of said interest otherwise than as here directed, the said register is hereby required to deposit the same in a separate bank book, to be opened by him on account of the said sinking fund alone

Ibid, s. 4. Register to furnish statement of investments.

The said register is hereby directed to furnish quarterly, on the first days of February, May, August and November, in each and every year, to the commissioners of finance of the city of Baltimore, and to the Baltimore and Ohio Railroad Company, a statement of the investments made by him on account of said fund, so that the said commissioners and the said company may be advised of the operation of the said sinking fund, in the extinction of the debt of said company of five millions of dollars aforesaid.

No. 71, s. 1, May 4, '59. Register to demand three hundred dollars annually from B. & O. R.R.Co

The register is hereby authorized and required to demand from the Baltimore and Ohio Railroad Company the sum of three hundred dollars annually, from and after the first day of January, 1855, and hereafter to collect semi-annually from said company, the sum of one hundred and fifty dollars as compensation for services rendered in the transfer department, until by the operation of the sinking fund said loan shall be absorbed.

Ibid, s. 2. To be paid into city treasury.

The sum received from said railroad company shall be paid into the city treasury to reimburse the city for expenses incident to the aforesaid issues and transfers.[1]

No. 88, Oct. 15, '66. Railroad notes.

Whereas, by ordinance of the mayor and city council, a sinking fund was created for the redemption of the Baltimore and Ohio railroad notes; and whereas, for some years past there have been but few, if any, of said notes presented for redemption, and it is very probable that no more will be presented for that purpose, therefore,

To cancel certificates of stock.

The commissioners of finance, in conjunction with the city register, are hereby authorized and directed to meet together and to cancel the certificates of stock constituting the said sinking fund, and the register is hereby authorized and directed to pay any of the aforesaid notes that may hereafter be presented, and to charge the same to direct tax.[2]

36. Northern Central Railway.

No. 81, s. 1, May 18, '65. Compromise and settlement —Northern Central Railway.

The Northern Central Railway Company shall, on or before the first day of July, 1865, pay and deliver to the mayor and city council of Baltimore, in full compromise and settlement of all claims and demands of the city against the company,

Amount.

the sum of twenty-six thousand dollars in cash, and three

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[1] This ordinance recites that the numerous issues and transfers of the five million loan devolve a great amount of labor on the transfer department, and frequently requires the employment of extra services; and that section 1 of ordinance No. 5, May 4, 1853, provides that any and all expenses incident to the issue of any of the bonds of the five million loan, whether currency or sterling as aforesaid, shall in like manner be chargeable and paid by the Baltimore and Ohio Railroad Company.

[2] 1841, c. 304, authorized the mayor and city council, for the purpose of retiring the stock orders of the Baltimore and Ohio Railroad Company, to issue certificates of stock of a less denomination than one hundred dollars, bearing an interest of six per cent. per annum, said certificates of stock to be received by the city corporation at any time when presented in payment of taxes and debt due said corporation; no certificate of stock thus issued to be of a less denomination than ten dollars.

hundred coupon bonds for one thousand dollars each, made by the said railway company, with interest at six per cent. per annum, payable quarterly from and after the first day of January, 1865; the principal payable at the end of twenty years from the said first day of January, 1865, redeemable, nevertheless, in whole or in part within the said period, upon thirty days notice to the holders thereof. The said bonds to be secured by a mortgage upon said railway.

Ibid, s. 2. Release of all claims to N. C. R. W. Co., B. & S. R. R Co. and Y. & M. L. R.R. Co.

Upon the receipt of said cash and bonds, and the payment of the bonds, the mayor of said city shall execute and deliver to the said railway company, and to the Baltimore and Susquehanna Railroad Company, and the York and Maryland Line Railroad Company, a release of all claims and demands of every nature and description whatsoever, except such liabilities as may remain by virtue hereof; and shall further enter satisfaction on all and every mortgage or other instrument of writing by which any claim of the city of Baltimore is evidenced or secured, and from all claims as stockholders of the said company, except so far as relates to the stock hereinafter mentioned, and except also the bonds of the York and Cumberland Railroad Company for five hundred thousand dollars, guaranteed by the city of Baltimore under ordinance No. 44, approved June 17, 1852, and ordinance No. 76, approved July 22, 1852.

Exceptions. Y. & C. R.R.Co.

Ibid, s. 3, Shares of N. C. R. R. Co.

The title and ownership of the mayor and city council of Baltimore to four thousand shares of the capital stock of the said Northern Central Railway Company, and to all dividends that may hereafter be declared thereon, is hereby ratified and confirmed.[1]

No. 44, s. 1, June 17, '52. Guarantee of bonds of Y. & C. R. R. Co.

Whenever the register of the city shall be satisfied by the exhibition of the list of subscription, verified by the oath or affirmation of the president or chief officer of the Susquehanna

[1] By Res. No. 132, July 1, '65, the commissioners of finance were authorized and directed to sell the city's entire interest in the Northern Central Railway Company for not less than eight hundred thousand dollars.

Railroad Company, that the sum of two hundred and fifty thousand dollars has been bona fide subscribed to the capital stock of said company, for the purpose of constructing a railroad from the borough of Sunbury, in Northumberland county, to the town of Bridgeport, in Cumberland county, in the State of Pennsylvania, there to connect with the York and Cumberland railroad, (the said subscription of two hundred and fifty thousand dollars to be independent of the subscription to be made as hereinafter stated, by the York and Cumberland Railroad Company,) and upon the presentation to the said register, either at one time or from time to time, after the bonds or certificates of loan of the said York and Cumberland Railroad Company, with a certificate of the president and treasurer of said Susquehanna Railroad Company, of the amounts and dates of the instalments as called in, of the capital stock of said company, for a sum not exceeding in the aggregate five hundred thousand dollars, subdivided as it may suit the convenience of the said York and Cumberland Railroad Company, payable on the first day of January, in the year 1877, with interest at the rate of six per cent. per annum, payable half yearly—in the meanwhile the principal and interest being secured by a pledge of the property of the said York and Cumberland Railroad Company, and of the stock to be subscribed, as hereinafter directed by said company, to the capital stock of the said Susquehanna Railroad Company, then the said register shall endorse, either in writing or by causing the same to be printed or engraved upon the said bonds or certificates of loan of the said York and Cumberland Railroad Company aforesaid—the guarantee of the mayor and city council of Baltimore to be signed by the mayor of the said city for the time being, with the corporate seal of said city thereto affixed, in the following words: For value received, the mayor and city council of Baltimore do hereby guarantee the payment of the within bond, (or certificate of loan,) for $————, with the interest thereon, according to its tenor, under the authority of an act of the general assembly

Pledge of property.

Form of guarantee.

of Maryland, passed at January session, 1852,[1] entitled an act giving certain powers to the mayor and city council of Baltimore in regard to the York and Cumberland Railroad Company, and in pursuance of an ordinance of the said mayor and city council, passed on the 17th day of June, in the year 1852, entitled an ordinance to guarantee the bonds of the York and Cumberland Railroad Company. In testimony whereof,————, mayor of the said city, hath hereto subscribed his name and caused the corporate seal of the mayor and city council of Baltimore to be hereto affixed, on this ————day of————in the year eighteen hundred and fifty——

————, *Mayor.*

[SEAL.]

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[1] 1852, c 141, authorized the mayor and city council of Baltimore to give such aid towards the construction of the Susquehanna railroad, from Bridgeport towards Sunbury and Williamsport, on the Susquehanna river, as they might deem expedient, either by lending to the said Susquehanna Railroad Company, or to the York and Cumberland Railroad Company, the stock or bonds of the said city, on condition that the said railroad companies paid the interest on such stock or bonds until the time when the said Susquehanna railroad should be completed and opened from its southern terminus to Williamsport, or by a guaranty of the bonds of the said Susquehanna or York and Cumberland Railroad Company, for the purpose aforesaid; and the said mayor and city council were authorized to receive from said York and Cumberland or Susquehanna Railroad Company, such security as might seem most advisable, to indemnify the corporation of Baltimore against any loss, either of the interest or principal of the liability which might be incurred by said corporation for the construction of said Susquehanna railroad; the amount of said guaranty or loan not to exceed the sum of five hundred thousand dollars.

1854, c. 260, entitled an act to provide for the sale of the interest of the State of Maryland in the Baltimore and Susquehanna Railroad Company, and for the completion of the Northern Central Railway, from tide-water in the city of Baltimore, to Sunbury in the State of Pennsylvania, and for vesting certain powers to that end in the mayor and city council of Baltimore, enacts:

4. That the mayor and city council of Baltimore are hereby authorized and empowered to transfer all the interest of the said mayor and city council of Baltimore, whether in the form of bond, mortgage, stock or other interest in the Baltimore and Susquehanna Railroad Company to the York and Cumberland Railroad Company, whenever the said York and Cumberland Railroad Company duly authorized thereto shall have, under the corporate seal of the said company, assented to and accepted the provisions of an act entitled an act to authorize the consolida ion of the Baltimore and Susquehanna Railroad Company with the York and Maryland Line Railroad Company, the York and Cumberland Rail-

Register.

Before the said register shall deliver to the said York and Cumberland Railroad Company the bonds or certificates of loan so guaranteed by the mayor and city council of Baltimore, he shall be satisfied by the delivery to him of a certificate of the president and treasurer of the said Susquehanna Railroad Company, of the subscription to the capital stock of the said company of ten thousand shares, amounting, when fully paid, to five hundred thousand dollars, by the said York and Cumberland Railroad Company, and also the delivery by said York and Cumberland Railroad Company of a good and sufficient deed, pledging the property of said company and the

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road Company, and the Susquehanna Railroad Company, by the name of the Northern Central Railway Company, it being expressly understood that the said transfer is upon the sole condition that the said Baltimore and Susquehanna Railroad Company, and the several companies herein mentioned, shall fully agree upon the consolidation of the said companies aforesaid, upon terms to be by them agreed upon, otherwise to be of no force and effect; and the said mayor and city council of Baltimore are further authorized and empowered to make any subscription they may think expedient or proper to the stock of said consolidated company not exceeding the amount of five hundred thousand dollars, or to make any loan to that amount to said company, and to issue the bonds of the corporation therefor, with interest, payable at any time after the year 1880, and to deliver said bonds to said company at par, in payment of said stock or loan, the amount thereof to be appropriated by said company in such manner as the said mayor and city council of the city of Baltimore may direct; or instead of such loan, the said mayor and city council are hereby authorized to make such disposition of the stock heretofore subscribed by the corporation of the city of Baltimore in the Baltimore and Susquehanna Railroad Company, and also of the debt heretofore contracted by the said company to the city of Baltimore, as the said mayor and city council may judge conducive to the public interest, and also to give their assent to any proceedings that may be considered advisable for making said stock and debt, or any part thereof, available for the completion of the road of the said consolidated company to Sunbury or to tide-water.

Ordinance No. 57, June 21, 1854, provides, that the Northern Central Railway Company, (formed by consolidation of the Baltimore and Susquehanna Railroad Company with the York and Maryland Line Railroad Company, the York and Cumberland Railroad Company, and the Susquehanna Railroad Company, under the act of 1854, c. 250,) shall conform and make good to the mayor and city council, all the security stipulated for by the provisions of ordinance No. 44, approved June 17, 1852, and No. 76, approved July 22d, 1852, relative to the guarantee of the bonds of the York and Cumberland Railroad Company, and that nothing herein contained shall be construed to release or impair the security which the city of Baltimore now holds as indemnity for the guarantee of the said bonds.

capital stock subscribed by said company to the said Susquehanna Railroad Company, for the payment of said bonds or certificates of loan, and the interest thereon, according to their tenor, in which deed there shall be a proviso that the mayor and city council of Baltimore, having first obtained authority from the legislature of Maryland so to do, may, at any time prior to the payment of the principal of said bonds, elect to take stock at par in the said Susquehanna Railroad Company to the amount of bonds or certificates of loan so guaranteed, or any part thereof; the mayor and city council of Baltimore in that event releasing the said York and Cumberland Railroad Company from all liability, and guaranteeing said company from all loss on account of the said bonds, or such amount thereof as corresponds to the amount of stock so elected to be taken, assuming the payment of the same in the hands of third parties, without recourse thereafter for principal or interest to the said York and Cumberland Railroad Company. Release.

The non-payment by the said York and Cumberland Railroad Company of the interest, or any part thereof, on the said bonds or certificates of loan, or any of them, is hereby recognized as giving an instant claim for the payment thereof by the mayor and city council of Baltimore, and the faith of the said mayor and city council is hereby solemnly pledged to take all such steps as may be necessary to enable them to meet without delay the liabilities incurred by them by the guarantee hereby authorized, under the power given to them by the act of assembly of Maryland aforesaid, and for that purpose, should the council not be in session, the mayor shall convene the same forthwith, to the end that the holders of the said bonds or certificates of loan may be subjected to no avoidable delay in the punctual payment of the principal and interest thereof, according to their tenor. Ibid, s. 3. Faith of city pledged.

Before the register, as required by the second section of the above ordinance to which this is a supplement, shall deliver to the York and Cumberland Railroad Company the bonds No. 76, July 22, '52. Register.

or certificates of loan, as required by the said ordinance to be guarantied by the mayor and city council of Baltimore, he

York & C. R. R. Co. to give deed.

shall receive from the said York and Cumberland Railroad Company, a good and sufficient deed or deeds, pledging the property of the said company for the payment of the said bonds or certificates of loan and the interest thereon, according to their tenor, in which deed or deeds there shall also be a

Covenant.

covenant on the part of the said York and Cumberland Railroad Company, to hold for the use of the city of Baltimore, as further security to the city of Baltimore for the guarantee of the said bonds or certificates of loan, any securities which the said York and Cumberland railroad may or shall obtain from the Susquehanna Railroad Company, for the loan of the said bonds or certificates of loan, or the proceeds thereof, to the said Susquehanna Railroad Company; and in like manner to hold, for the use of the city of Baltimore, as security as aforesaid, any stock in the said Susquehanna Railroad Company, which the said York and Cumberland Railroad Company may at any time receive, upon a subscription or transfer founded upon the bonds or certificates guarantied by the city, or the proceeds thereof, whether said stock shall have been originally subscribed by said York and Cumberland Railroad Company, or obtained in commutation of any loan made by said York and Cumberland Railroad Company, to the said Susquehanna Railroad Company; it being the intent and purpose of this ordinance to recognize the right and power of the York and Cumberland Railroad Company to appropriate, at their pleasure, the said bonds or certificates of loan guarantied by the city, or the proceeds thereof, either in loaning the same to the said Susquehanna Railroad Company on such terms and conditions as the said York and Cumberland Railroad Company may think fit, taking good security for such loan, and reserving the right to convert the same into stock; or in making a subscription to the stock of the said Susquehanna Railroad Company, or in purchasing such stock whenever they may think it expedient to do so; the said securities for the loan, and the said stock, when ac-

quired, being, as herein above directed, to be held by the said York and Cumberland Railroad Company as further or additional security to the city of Baltimore, for the guarantee of the bonds or certificates of loan as aforesaid.

Ibid, s. 2. Condition of guarantee.

As a condition precedent to the guarantee of the said bonds or certificates of loan of the said York and Cumberland Railroad Company in the manner prescribed in the first section of the ordinance to which this is a supplement, the said Susquehanna Railroad Company shall enter into a permanent contract, in writing, with the said York and Cumberland Railroad Company, a duplicate copy of which contract shall be lodged with the register before the said bonds or certificates of loan, or any part thereof, shall be guarantied by the city, under the corporate seal of the said Susquehanna Railroad Company, that no discrimination in tolls, the rates of transportation or passenger fare, or in the management or working of said Susquehanna Railroad Company, shall or will be made of a character to prejudice or impair the interest of the said York and Cumberland Railroad Company, or to divert trade or travel from the city of Baltimore.

Ibid, s. 3. Condition of bonds.

The bonds or certificates of loans as provided (by the first section of the ordinance No. 44, June 17, '52, to which this is a supplement) to be issued by the said York and Cumberland Railroad Company, for a sum not exceeding in the aggregate five hundred thousand dollars, and to be guarantied by the mayor and city council of Baltimore, shall be issued in sums of five hundred or one thousand dollars, (interest payable half yearly on the first day of January and July,) and also upon condition that said bonds or certificates of loan shall not be sold or disposed of by said York and Cumberland Railroad Company, or said Susquehanna Railroad Company, at less than par; and said register shall open upon his stock book a separate account of the bonds or certificates aforesaid, and make a report of the same to the mayor and city council aforesaid at their regular annual sessions; and so much of the second section, and all such part or parts of the said

ordinance to which this is a supplement as are inconsistent with the provisions of this supplement are hereby repealed.

37. Northwestern Virginia Railroad.

No. 40, s. 1, June 5, '52.

Guarantee of bonds of N. W. Virginia railroad.

Whenever the register of the city shall be satisfied, by the exhibition of the lists of subscription, verified by the oath or affirmation of the president or chief officer of the Northwestern Virginia Railroad Company, that the sum of five hundred thousand dollars has been bona fide subscribed, and instalments shall have been called for and paid, to the amount of one-fourth part of said sum of $500,000, as part of the capital stock of said company, for the purpose of constructing a railroad from Parkersburg, in the county of Wood, in the State of Virginia, to intersect the line of the Baltimore and Ohio railroad at some eligible and convenient point, at or near the mouth of Three Fork, in the county of Taylor, in said State; and for providing everything necessary for convenient transportation on the same; and when he shall also be satisfied, by the exhibition of a duplicate original agreement to that effect to be filed with the said register, that the Baltimore and Ohio Railroad Company hath agreed with the said Northwestern Virginia Railroad Company, and bound itself, so soon as the Baltimore and Ohio railroad shall be completed and in operation to the city of Wheeling, or as soon thereafter as the said Northwestern Virginia Railroad Company shall require it to be done, to guarantee the bonds of the said Northwestern Virginia Railroad Company to the amount of one million of dollars, or such amount not exceeding that sum as the said Northwestern Virginia Railroad Company may require, to aid it in the construction of the railroad from Parkersburg aforesaid, and also that the said Northwestern Virginia Railroad Company hath agreed with the said Baltimore and Ohio Railroad Company, in consideration of the aid herein agreed to be given to the former company by the said mayor and city council of Baltimore, as well as of the guarantee of the said Baltimore and Ohio Railroad Company

Subscription.

Agreement of B. & O. railroad company.

above mentioned, that the tolls for the through trade and travel of persons and property carried over the said Northwestern Virginia railroad, to and from all points east of the junction of the two roads, shall be the same as those charged on through trade and travel on the said Baltimore and Ohio railroad, to or from all points west of said junction, to the end that the through trade and travel on the said two roads may be uniform throughout, as though they formed one road, under the management, so far as through trade and travel are concerned, of the said Baltimore and Ohio Railroad Company; and upon the presentation to the said register, either at one time or from time to time, of the bonds or certificates of loan of the said Northwestern Virginia Railroad Company, for a sum not exceeding in the aggregate one million and a half of dollars, as may suit the convenience of the said Northwestern Virginia Railroad Company, in sums of one thousand dollars and five hundred dollars, payable on the first day of January, in the year eighteen hundred and seventy-three, in the city of Baltimore, with the interest at the rate of six per cent. per annum, payable half yearly, also in the said city, on the first day of January and July; in the meanwhile the principal and the interest being secured by a pledge of the property of the said Northwestern Virginia Railroad Company; and also upon condition that said bonds or certificates of loan shall not be sold or disposed of by said Northwestern Virginia Railroad Company at less than par; and further, that said Northwestern Virginia Railroad Company shall obligate themselves to keep said road in good order and well stocked; then, and in these events, the said register shall endorse, either in writing or by causing the same to be printed or engraved upon the said bonds or certificates of loan of the said Northwestern Virginia Railroad Company aforesaid, the guarantee of the mayor and city council of Baltimore, to be signed by the mayor of said city, and countersigned by said register, for the time being, with the corporate seal of said city thereto affixed, in the following words:—"For value received, the mayor and city council do hereby guarantee the

Amount and conditions of bonds.

Duty of register

Form of guarantee.

payment of the within bond (or certificate of loan) for $——— with the interest thereon, according to its tenor, under the authority of an act of the general assembly of Maryland, passed at January session, 1852, entitled an act giving certain powers to the mayor and city council of Baltimore, in regard to the Northwestern Virginia Railroad Company,[1] and in pursuance of an ordinance of the said mayor and city council, passed on the fifth day of June, in the year eighteen hundred and fifty-two, entitled an ordinance to guarantee the bonds of the Northwestern Virginia Railroad Company. In testimony whereof, ——— ———, mayor of the said city, hath hereto subscribed his name, and caused the corporate seal of the said mayor and city council to be hereto affixed on this —— day of ——— in the year eighteen hundred and fifty ——.

——— ———, *Mayor.*

[SEAL.]

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[1] 1852, c. 146, authorized the mayor and city council to give such aid to the Northwestern Railroad Company of Virginia, as they may deem expedient, either by lending to the said railroad company the stock or bonds of said city, on condition that the said railroad company shall pay the interest on such stock or bonds, until the time when the said railroad shall be completed and opened to the Ohio river, or by a guaranty of the bonds of the said railroad company; provided, however, that the amount for which the said city shall be responsible, shall not exceed the sum of one million and five hundred thousand dollars; and that to enable the said mayor and city council to meet the liability to be incurred by them for principal or interest, under the authority hereby conferred on them, they are empowered hereby, over and above any existing privilege, to raise money heretofore imposed upon them, to borrow any amount of money not exceeding one million and a half of dollars from such persons, on such terms and for such length of time as they, the said mayor and city council, from time to time, may find convenient and expedient for the accomplishment of the purposes contemplated by this act; and that the said mayor and city council of Baltimore are hereby authorized and empowered, in addition to any power of taxation heretofore vested in them, to levy upon the assessable property within the limits of the city of Baltimore, or collect by tax, according to the usual mode of raising money, by taxation in the said city of Baltimore, any sum or sums of money which may be necessary to pay and discharge the principal and interest of any loan or loans which may be obtained by the said mayor and city council of Baltimore in pursuance of this act.

By 1852, c. 307, the B. & O. R. R. Co. were authorized, under certain conditions, to lend their aid or credit to the N. W. V. R. R. Co. See *Mayor, &c.* v. *B. & O. R. R. Co.*, 21 Md., 53.

Should the said bonds or certificates of loan of the North- Ibid, s. 2.
western Virginia Railroad Company be issued with interest Form of coupons.
coupons attached thereto, the said coupons shall be guaranteed by endorsing in writing, printing, or engraving thereon, the words: Guarantied by the mayor and city council of Baltimore. ————————, register. The said register being authorized to use a stamp, with fac simile of his signature, in lieu of his own proper signature, on such coupons.

Before the said register shall deliver to the said Northwest- Ibid, s. 3.
ern Virginia Railroad Company, the bonds or certificates of Deed from N. W. Virginia R. R. Company to mayor and city council.
loan so guarantied by the mayor and city council of Baltimore, he shall be satisfied, by the exhibition and delivery to him of the duly acknowledged and recorded original, that the said Northwestern Virginia Railroad Company hath executed to the mayor and city council of Baltimore a good and sufficient deed, pledging the property of the said company for the payment of said bonds or certificates of loan and the interest thereon, according to their tenor: in which deed there shall be a proviso, that said mayor and city council of Balti- Proviso.
more, having first obtained authority from the legislature of Maryland so to do, may, at any time during the continuance of, or within five years after the completion of said road, elect to take stock at par in the said Northwestern Virginia Railroad Company, to the amount of the bonds or certificates of loan so guarantied, or any part thereof; the said mayor and city council, in that event, releasing the said Northwestern Vir- Release upon conditions.
ginia Railroad Company from all liability, and guaranteeing said company from all loss on account of the said bonds, or such amount thereof as corresponds to the amount of stock so elected to be taken, assuming the payment of the same in the hands of third parties without recourse thereafter, for principal or interest, to the said Northwestern Virginia Railroad Company.

The non-payment by the said Northwestern Virginia Rail- Ibid, s. 4.
road Company, of the interest, or any part thereof, on the Non payment of interest.
said bonds or certificates of loan, or any of them, is hereby

Faith of city pledged.

recognized as giving an instant claim for the payment thereof by the mayor and city council of Baltimore; and the faith of the said mayor and city council of Baltimore is hereby solemnly pledged to take all such steps as may be necessary to enable them to meet without delay, the liabilities incurred by them by the guarantee hereby authorized, under the power given to them by the act of the general assembly of Maryland aforesaid; and for that purpose, should the city council not be in session, to convene the same forthwith, to the end that the holders of the said bonds or certificates of loan may be subjected to no avoidable delay in the punctual payment of the principal and interest thereof, according to their tenor.

Ibid, s. 5. Register to keep account of bonds.

The said register of the city shall open, upon his stock book, a separate account of the bonds aforesaid, and make a report of the same to the mayor and city council aforesaid at their regular annual session. [1]

38. Pittsburg and Connellsville Railroad.

No. 74, s. 1, June 24, '53. Pittsburg and Connellsville railroad.

The register of the city shall, as hereinafter provided, upon presentation to him of the bonds of the Pittsburg and Connellsville Railroad Company, amounting in the aggregate to the sum of one million of dollars, payable on the first day of January, in the year 1883, or at any time thereafter at the pleasure of the city; if the Pittsburg and Connellsville Railroad Company should fail then to meet the payment thereof, with interest, at the rate of six per cent. per annum, payable semi-annually, on the first day of January and July of each

City to guarantee bonds.

[1] By resolution No. 76, April 22, '64, the commissioners of finance were authorized to sell the entire claim of the city of Baltimore against the Northwestern Virginia Railroad Company, for a sum not less than $1,100,000—$100,000 to be paid cash; the balance to be paid at a period not later than December 1, 1872, with interest to commence January 1, 1864, and to be paid semi-annually on or before the first day of January and July, in each year, and with all necessary stipulations to secure an early completion of said road, and of a bridge to connect it with the Marietta and Cincinnati Railroad. The city's interest was sold July 22, '64, to Baltimore and Ohio Railroad Company, for $1,200,000, under propositions and agreements, in report of commissioners of finance, August 25, '64.

year, at some place, to be therein designated, in the city of Baltimore, and convertible into the stock of said company at par, at the pleasure of the holder, cause the same to be endorsed by the guarantee of the city of Baltimore, to be signed by the mayor of said city for the time being, with the corporate seal of the said city thereto affixed, in the following words, to wit:—For value received, the mayor and city council of Baltimore do hereby guarantee the payment of the within bond for $————, with the interest thereon, according to its tenor, under the authority of an act of the general assembly of Maryland, passed at January session, 1853, entitled an act giving certain powers to the mayor and city council of Baltimore in regard to the Pittsburg and Connellsville Railroad,[1] and in pursuance of an ordinance of the said mayor and city council, passed on the 24th day of June, in the year 1853, entitled an ordinance to guarantee the bonds of the Pittsburg and Connellsville Railroad Company. In testimony whereof, ————————, mayor of the city of Baltimore, hath hereto subscribed his name and caused the

Form of guarantee.

[1] 1853, c. 269, authorized the mayor and city council to give such aid to the Pittsburg and Connellsville Railroad Company, as they may deem expedient, either by lending to the said railroad company the stock or bonds of the said city, on condition that the said railroad company shall pay the interest on such stock or bonds until the time when the said railroad shall be completed and opened from Pittsburg in Pennsylvania to Cumberland in Maryland, or by a guarantee of the bonds of the said railroad company; provided, however, that the amount for which the said city shall be responsible, shall not exceed the sum of one million dollars; and that to enable the said mayor and city council to meet the liability to be incurred by them for principal or interest, under the authority hereby conferred on them, they are empowered hereby, over and above any existing privilege, to raise money heretofore imposed upon them, to borrow any amount of money not exceeding one million dollars, from such persons, on such terms, and for such length of time as they, the said mayor and city council, from time to time may find convenient and expedient for the accomplishment of the purposes contemplated by this act; and that the said mayor and city council of Baltimore are hereby authorized and empowered, in addition to any power of taxation heretofore invested in them, to levy upon the assessable property within the limits of the city of Baltimore, or collect by tax, according to the usual mode of raising money by taxation, in the said city of Baltimore, any sum or sums of money which may be necessary to pay and discharge the principal and interest of any loan or loans which may be obtained by the said mayor and city council of Baltimore in pursuance of this act.

corporate seal of the mayor and city council of Baltimore to be hereto affixed, on this——day of————in the year eighteen hundred and fifty———.

[SEAL.] ————————, *Mayor.*

Ibid, s. 2. Duty of register.

Before the register shall deliver to the Pittsburg and Connellsville Railroad Company, the bonds required by the preceding section to be guarantied by the mayor and city council of Baltimore, he shall require a certificate of the Pittsburg and Connellsville Railroad Company, verified by the oath or affirmation of the president of said company, that there have been reliable subscriptions to the capital stock of said company, in the aggregate to a sum not less than two millions of dollars, and of which instalments not less than one-fourth of the whole shall have been paid; and the said register shall also require from the said Pittsburg and Connellsville Railroad Company, a good and sufficient deed or deeds to be executed to such party or parties, and recorded at such time or times as the said register shall designate, pledging the real and personal estate, road or roads, tolls and revenue of said company as security for the guarantee of the bonds aforesaid; and he shall further require from the said company an obligation providing for the expenditure of the moneys arising from the sales of these bonds, upon the construction of the railroad between Pittsburg and Cumberland *pari passu* with the moneys from the stock subscriptions; and he shall further require from the said company an obligation, providing that the construction of said road shall commence simultaneously at Pittsburg and at Cumberland, or any other point where said road shall connect with the Baltimore and Ohio railroad; and that for every two miles of said railroad completed from Pittsburg eastwardly, one mile of said railroad shall be completed from Cumberland or other place of connection with the Baltimore and Ohio railroad westwardly; and he shall further require the said Pittsburg and Connellsville Railroad Company to enter into a permanent obligation or contract in writing, with the mayor and city council of Bal-

Certificate of subscriptions.

Deed required.

Obligation as to expenditure.

Commencem'nt of construction and progress.

timore, to be lodged with the register, not to discriminate in the tolls or charges for transportation of passengers or merchandise, in the management or working of said road in any wise to the prejudice or injury of the city of Baltimore, or of the Baltimore and Ohio Railroad Company, or to divert the trade or travel from the city of Baltimore to any other city or point on the seaboard; but in fixing their tolls and transportation charges, both on tonnage and passengers, they shall in no case exceed those charges by the Baltimore and Ohio Railroad Company, which obligation or contract shall, in addition, bind the said Pittsburg and Connellsville Railroad Company to choose at least three directors of said company residing in the city of Baltimore, at each election for directors therein.

Discrimination in rates of tolls.

Three directors to be taken from Baltimore

The bonds to be guarantied by the mayor and city council of Baltimore, be issued by the Pittsburg and Connellsville Railroad Company, not exceeding in the aggregate one million of dollars, and shall be issued in sums of five hundred and one thousand dollars each; and it is further ordained, that the said bonds shall not be disposed of for less than par; and if any premium shall be realized on the sale of said bonds, which sale shall be made only with the assent of said register of the city of Baltimore, as to the times and places of advertising and receiving bids for the same, so as to cause them to sell for the highest market value, the gross amount of premium, whatever it may be, shall be paid over to the said register for the use and benefit of the city of Baltimore, for the establishing of a sinking fund for the extinguishment of the city debt; and the register shall open upon his stock book a separate account for the bonds aforesaid, and make a report of the same to the mayor and city council of Baltimore, at their regular annual sessions.

Ibid, s. 3. Bonds.

Rates to be sold at.

Premium.

Register to have control.

Sinking fund.

In the event of non-payment by the said Pittsburg and Connellsville Railroad Company of the interest, or any part thereof, when due on the said bonds, the mayor and city council of Baltimore shall immediately assume the payment thereof, and the faith of the said mayor and city council of

Ibid, s. 4. If non-payment

Baltimore assumes payment

Baltimore is hereby solemnly pledged to take all such steps as may be necessary to enable them to meet without delay the liabilities incurred by the guarantee hereby authorized, under the power given them by the act of the general assembly of Maryland aforesaid; and for that pnrpose, should the city council not be in session, the same shall be convened forthwith, to the end that the holders of said bonds may be subjected to no unavoidable delay in the punctual payment of interest and principal, according to the tenor of their bonds.

Ibid, s. 5. When to take effect.

This ordinance shall not go into effect until it and the provisions and conditions thereof are fully accepted by the said Pittsburg and Connellsville Railroad Company.

No. 29, June 10, '56. Preamble.

Whereas, by the above ordinance to which this is a supplement, a mode of pecuniary assistance to the Pittsburg and Connellsville Railroad Company was provided by a guarantee by the city of Baltimore, of one million of dollars of the bonds of said company, which mode of assistance the said company now represents to be unavailable under the terms of said ordinance, and make application to the city of Baltimore to change the form of the said aid from a guarantee by the city of said company's bonds, into the city of Baltimore's own bonds, the latter to be issued in substitution for the former. And whereas, the city is disposed to accede to said request, upon condition that the said company shall execute with the said city such a compact as shall secure the proper application of the said bonds, according to the intent and meaning of the original ordinance to which this is a supplement; now, therefore,

Ibid, s. 1, Registet to prepare city bonds.

Whenever the commissioners of finance of the city of Baltimore shall have concluded such arrangements with the Pittsburg and Connellsville Railroad Company, as shall provide for the application of the proceeds of the bonds hereby directed to be issued, in such manner as to said commissioners shall seem most conducive to the early completion of said road, and shall certify such fact to the register of the city, the said register shall be and he is hereby authorized to pre-

pare and execute bonds in the usual form, with the signature of the mayor and the seal of the city thereto, in sums of five hundred and one thousand dollars, to amount of one million of dollars in the aggregate, the said bonds to be payable on the first day of January, 1886, bearing six per cent. interest per annum, payable semi-annually, on the first day of January and July in each year, at some place to be therein designated, in the city of Baltimore; and upon the surrender to the said register, from time to time, for cancellation, of any amount of the bonds of the said Pittsburg and Connellsville Railroad Company, heretofore guarantied by the city of Baltimore, to deliver a like amount of the said bonds of the city of Baltimore to said commissioners of finance, to be by them sold as other bonds of said city are by them sold; and the proceeds to be disbursed by the said commissioners of finance in the discharge of the debts and contracts of said road, upon the order of the president and directors of said road, when they, the said commissioners, shall be satisfied that said orders are given for the legitimate expenditure of said road, and for redeeming from hypothecation the bonds of the said company guarantied by the city of Baltimore.

Payment.

Rate of interest

Old bonds returned.

New bonds—how sold.

Before the said exchange shall take place to any extent whatever, the said Pittsburg and Connellsville Railroad Company shall execute to the city of Baltimore, a deed, the form of which shall be approved by the counsellor of the city, recognizing and confirming all the provisions and conditions of the original ordinance to which this is a supplement, except as modified by this ordinance, and covenanting for, and securing the payment by the said railroad company of the interest and principal of said bonds, as they shall respectively become payable, and making the mortgage now held by the city of Baltimore applicable to secure the interest and principal of the bonds of the city hereby directed to be issued.

Ibid, s. 2.

Execute deed.

Interest and principal.

Ibid, s. 4. When to go into effect.

This ordinance shall not go into effect until it and the provisions and conditions thereof shall be accepted by the said Pittsburg and Connellsville Railroad Company.[1]

No. 22, April 21, '58. Preamble.

Whereas, the Pittsburg and Connellsville Railroad Company are desirous of issuing bonds to the amount of four hundred thousand dollars, on which to obtain a loan for the construction of that part of their road lying between their depot in Pittsburg and Port Perry; and in order to enable them to effect such loan, have applied to the mayor and city council of Baltimore to postpone the lien of their mortgage upon said part of the Pittsburg and Connellsville railroad, so as to enable the company to give priority and preference of payments to such persons as may become purchasers of said bonds by a pledge of said part of their road, freed from the city mortgages; now therefore,

Ibid, s. 1. Liens and mortgages waived.

All liens and mortgages now held by the mayor and city council of Baltimore, or to which they are in any way entitled in and to that part of the Pittsburg and Connellsville railroad which lies eastwardly from Pittsburg for the distance of about ten miles and six-tenths of a mile, between the depot of said company in Pittsburg and Port Perry, near Turtle creek, are hereby waived and postponed in favor of such persons as shall become purchasers of bonds to be issued by the Pittsburg and Connellsville Railroad Company, to the amount of four hundred thousand dollars, and to whom for the repayment thereof said company shall pledge the said part of their road; provided, however, said bonds shall not be sold, disposed of or hypothecated by the company or any agent for the company, for less than seventy-five per cent. upon the amount of the bonds so purchased; and that the purchasers or holders of said bonds to the extent of said part of the Pittsburg and Connellsville railroad above described, shall have preference and priority of lien for the payment of said bonds over and above that of the mayor and city council

Proviso.

[1] Sec. 3, (providing for giving priority over mortgage to city,) of above ordinance, was repealed by Ord. No. 7, Feb. 18, '65.

under their said mortgages; reserving, however, to the said mayor and city council of Baltimore, in the fullest manner, all benefit whatever of their said mortgages and liens to all other portions of the road of said company, except that above described, and also the lien of the said city of Baltimore upon the said portion of the road from Pittsburg to Port Perry, after the payment of the bonds hereinbefore mentioned.

Ibid, s. 2. Discrimination of tolls not to be allowed.

The said Pittsburg and Connellsville Railroad Company shall not establish a discrimination of tolls in any one portion of the road over another, unless with the assent and concurrence of the directors hereinafter mentioned; but the same shall be equalized and regulated by the rates adopted and in force upon the Pittsburg and Connellsville road. And the said company shall charge to the new section of the road (which is between Pittsburg and Port Perry,) for the use thereon of all motive power and rolling stock and salaries of officers and servants its fair proportion of costs and expenses; neither shall the salaries or number of the officers, servants or employees of the said Pittsburg and Connellsville Railroad Company be increased unless with the assent and concurrence of a majority of the directors appointed who are residents of the city of Baltimore.

Ibid, s. 3. City to appoint three directors.

The mayor of the city of Baltimore shall have the power to nominate the three directors of said company to be chosen from the city of Baltimore, (as provided for by the original ordinance No. 74, approved 24th June, 1853, hereinbefore,) who shall be elected according to such nomination by the said Pittsburg and Connellsville Railroad Company.

Ibid, s. 4. Revenue of road not to be applied to construction.

No part of the revenue derived from any portion of the Pittsburg and Connellsville railroad now completed, shall be applied in any way to the construction or management of the said road from Pittsburg to Port Perry.

Ibid, s. 5. City to have the privilege of purchasing.

The mayor and city council of Baltimore shall have the privilege of purchasing, at their option, the said road from Pittsburg to Port Perry, upon the payment to the bond hold-

ers the amount of their bonds, or by substituting therefor its own bonds for the same amount and upon the same terms.

Ibid, s. 6. To be completed within three years.

The said road shall be completed so as to be open for business within the space of three years from the 1st day of July, 1858, or this ordinance, at the discretion of the mayor and city council of Baltimore, may be repealed; reserving, however, in full the rights of such persons as may have bona fide subscribed and paid for in cash, work or materials for said road, any portion of the bonds authorized to be issued by this ordinance.

Ibid, s. 7. Ordinance to be approved by company.

This ordinance shall have no effect until it shall be approved by the Pittsburg and Connellsville Railroad Company, and notification of such approval in due form shall be transmitted to the mayor of the city of Baltimore, which shall be filed in the office of the city register.

Ibid, s. 8. Mayor to execute deed.

The mayor of the city of Baltimore shall have full power to execute any deed that may be necessary to give effect and operation to the provisions of this ordinance.

No. 16, s. 1, March 13, '68. Preamble. P. & C. R. R.

Whereas, it is represented that the completion of the Pittsburg and Connellsville railroad from Connellsville to Cumberland will require four million dollars, which, it is further represented, can be obtained, provided the city of Baltimore will consent to postpone the mortgage that she now holds in favor of those parties who may be willing to lend the said sum; and whereas, the said city has already issued her bonds for one million of dollars in aid of said Pittsburg and Connellsville Railroad Company, on which large arrears of interest have accumulated, the payment of which bonds, as well as of the interest, both accumulated and current, thereon, can best be secured by facilitating, in the way proposed, the obtaining of the loan for the four million dollars aforesaid, and by funding the arrears of interest up to the time when it is probable the said railroad will be completed, so as to enable the said company to use the said four millions for the purpose of construction exclusively; therefore,

Funding arrears

Upon the acceptance by the Pittsburg and Connellsville Railroad Company of the provisions of this ordinance, Benjamin F. Newcomer, John W. Garrett and Robert T. Banks,[1] are hereby appointed trustees to receive from the Pittsburg and Connellsville Railroad Company a deed of all the property of said company of every description, whether real or personal, to be held by them in trust to secure the payment of the bonds of said company, not exceeding in all four million dollars and the interest thereon, said bonds to be issued on such terms, for such times and in such manner as may be agreed upon by the said company and the said trustees, with the express understanding that the use of the said bonds or the proceeds thereof shall be confined to the construction of the Pittsburg and Connellsville railroad between Connellsville and Cumberland exclusively.

Ibid, s. 1, Acceptance. Trustees. Bonds of company. Construction of road.

Upon the execution of the said deed of trust, it shall have precedence and priority over a deed or mortgage from the Pittsburg and Connellsville Railroad Company to Charles M. Keyser and Robert Clinton Wright, dated August 4, 1856, in trust to save the said city of Baltimore harmless, as specified in said deed, from all loss or damage consequent upon the issue by the said city of the bonds for one million dollars in said deed mentioned, so that the deed of trust authorized by this ordinance shall, to all intents and purposes, be as effective, as regards the city of Baltimore, as if it had been in fact executed and acknowledged and recorded before the deed of August 4, 1856, aforesaid.

Ibid, s. 2. Priority. Deed of Trust.

The arrears of interest, together with the interest thereon now due by the Pittsburg and Connellsville Railroad Company, as well as the interest and the interest thereon that may

Ibid, s. 3, Arrears of interest.

[1] William T. Walters substituted by Ord. No. 32, May 5, '68, which enacts that it shall be lawful for the said Wm. T. Walters, and for the said Benjamin F. Newcomer and John W. Garrett, trustees as aforesaid, or a majority of them, (and they are hereby authorized and required) to do all acts which the said Benjamin F. Newcomer, John W. Garrett and Robert T. Banks were authorized to do by the above ordinance.

accrue and remain unpaid from this time to the first day of January, 1871, on the bonds of the city of Baltimore, issued in pursuance of an ordinance approved June 10, 1856, entitled a supplement to an ordinance entitled an ordinance guaranteeing the bonds of the Pittsburg and Connellsville Railroad Company, approved June 24, 1853, are hereby directed to be funded, and upon the payment of the principal of the said bonds, with the interest hereby directed as aforesaid, to be added to said principal, together with the interest that may fall due at the dates stipulated on the said bonds, on both principal and funded arrears, from and after the first day of January, 1871, the said Pittsburg and Connellsville Railroad Company shall be discharged from all obligations in connection with the said bonds under the mortgage of August 4, 1856, aforesaid.

Funding.

Ibid, s. 4. Payment of interest.

On the first of January, 1871, or sooner, if the said company shall sooner declare its readiness to commence the payment of interest on the said bonds and funded arrears, the register of the city is directed to adjust the arrears of interest up to that time, when the Pittsburg and Connellsville Railroad Company shall execute and deliver to the said register such acknowledgment or agreement as the counsellor of the said city shall approve, as evidence of the amount on which, in addition to the million dollars aforesaid, interest is to be regularly paid thereafter by the said company.

Acknowledgment from company.

Ibid, s. 5. Proceedings dismissed.

The proceedings heretofore instituted against the Pittsburg and Connellsville Railroad Company on account of the interest hereby directed to be funded, are dismissed.

Ibid, s. 6. Conditions.

Taxes and expenses.

This ordinance is upon the express condition that all taxes and assessments and other charges and expenses, together with all public dues now levied or which may hereafter be levied upon said debts due to the city of Baltimore aforesaid, or on account of the mortgage or deed from said Pittsburg and Connellsville Railroad Company to Charles M. Keyser and Robert C. Wright, or the bonds which said deed or mort-

gage was intended to secure, and for or on account of the deed of trust mentioned in section first of this ordinance, and the debt intended thereby to be secured to the city of Baltimore, shall be repaid by the Pittsburg and Connellsville Railroad Company to the city of Baltimore, as the same shall become respectively due and demandable, and shall be deemed and taken to be secured to said city by the deed of trust mentioned in section first of this ordinance.

Repayment by company.

This ordinance shall go into effect and operation when the commissioners of finance shall be satisfied that an amount of two millions of said bonds shall have been subscribed for in good faith by such parties as may in their judgment be deemed responsible; provided, however, that no sales of bonds shall be made at less than ninety cents in the dollar.

Ibid, s. 7.

Subscription to bonds.

Proviso.

39. Union Railroad.

Whenever the comptroller of the city shall be satisfied that the sum of one hundred and fifty thousand dollars has been bona fide subscribed, and the instalments thereon duly paid as part of the capital stock of the Union Railroad Company, as provided in the act of assembly, passed at January session of 1866, and amended at January session of 1867, for the purpose of constructing a railroad from a point near Owings' Mills, on the line of the Western Maryland Railroad, to tide-water at Canton, together with a lateral road to the city of Baltimore connecting therewith, and whenever the mayor, comptroller and register shall be satisfied that the president and directors of said Union Railroad Company have entered into a contract with responsible parties, and the work of constructing said railroad has actually been commenced in conformity with the ninth section, as amended, of said act of

No. 41, June 11, '67.

Amount stock subscribed.

When to guarantee bonds of company.

assembly,[1] then the register of the city, with the approval of the mayor, shall guarantee the bonds of the Union Railroad Company of Baltimore, as provided and stipulated by this ordinance in the name of the mayor and city council of Baltimore, to an amount not exceeding in the whole five hundred thousand dollars.

Amount.

Ibid, s. 2. Mortgage.

Before any bonds are guaranteed by the register as herein provided, the Union Railroad Company of Baltimore shall execute a good and sufficient mortgage to the mayor and city council of Baltimore, covering all the present and hereafter to be acquired estate, property and effects of the said company, together with its present and prospective tolls and revenues to secure the payment of the principal and interest, in priority, of any bonds guaranteed by the said mayor and city council, and to indemnify and save harmless the said mayor and city council such guarantee as herein provided, said mortgage to be approved by the mayor, comptroller and register, or a majority of them, and delivered to the register.

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[1] 1866, c. 119, s. 9, as amended by the act of 1867, c. 74, is as follows:

The president and directors of said company shall be invested with all the rights and powers necessary to the construction and repair of a railroad from some point on the Western Maryland railroad at or near Owings' Mills, by way of Powhaton and Wetheredville, to the city of Baltimore, west of Charles street, and also from some point on said Union railroad to tide-water at Canton, in Baltimore city or county, or either, with power to cross over, upon or under any other railroad, street or highway of any character whatever, together with any lateral railroad to the city of Baltimore, connecting therewith with as many sets of tracks as may be deemed necessary, not exceeding sixty six feet wide for the graded surface of said road or roads, and the said president and directors, or a majority of them, may contract, or contracts to be made between said company and any person or persons for the construction of the whole or any parts of such works, and said company or agents may enter upon and use any lands required for the construction of such road or roads and their necessary and convenient buildings and equipments, and may take and use such materials as may be required for the construction and repair thereof, according to the provisions of the act of 1852, c. 326, s. 14, entitled, an act to incorporate the Philadelphia, Wilmington and Baltimore Railroad Company.

1866, c. 49, authorizes the mayor and city council of Baltimore to endorse the first mortgage bonds of the Gwynn's Falls Railroad Company, to an amount not exceeding one hundred and fifty thousand dollars.

The bonds to be issued under the provisions of this ordinance, shall be of five hundred dollars or one thousand dollars each, payable on the first day of January, 1895, with interest meanwhile at the rate of six per cent. per annum, payable semi-annually on the first day of January and July in the city of Baltimore. Ibid, s. 3. Denomination of bonds. Interest.

The construction of said railroad shall commence on or before the first day of August, 1867, and such route as to alignment and gradients, shall be secured as will be, in the judgment of the mayor, register and comptroller, the most direct that can be obtained between the termini and the whole road, with a freight and passenger depot, west of Pennsylvania avenue, and depot at Canton, in the city of Baltimore, shall be completed within three years thereafter; and the said bonds shall be guaranteed, as the work progresses, in such proportion as a majority of the finance committee shall from time to time determine. Ibid, s. 4. Commencem'nt and completion of road. When bonds to be guaranteed.

When the conditions and provisions of the foregoing sections are complied with, the register of the city, with the approval of the mayor, shall endorse, either in writing, or by causing the same to be printed or engraved upon the said bonds, the guarantee of the mayor and city council of Baltimore, to be signed by the mayor and countersigned by said register, with the corporate seal of the city thereto affixed, in the following words: Ibid, s. 5. Conditions. The guarantee

For value received, the mayor and city council of Baltimore do hereby guarantee the payment of the within bond of ——— dollars, with the interest thereon according to its tenor, under the authority of an act of the general assembly of Maryland, passed at January session of 1866, entitled an act to incorporate the Union Railroad Company of Baltimore, and to authorize the mayor and city council of Baltimore to endorse the bonds of said company, and in pursuance of an ordinance of the said mayor and city council, passed on the 11th day of June, 1867, entitled an ordinance to endorse and guarantee Description of bonds.

the first mortgage bonds of the Union Railroad Company of Baltimore.

In testimony whereof, ————, mayor of said city, hereto subscribes his name, and causes the corporate seal to be hereto affixed on this —— day of ——— in the year eighteen hundred and ——.

————————, *Mayor.*

40. Virginia Valley Railroad.

Aug., s. 1, 1869. Subscription to stock of company.

The commissioners of finance of said city are hereby authorized and required, in the name of the city of Baltimore, to subscribe for one million of dollars of the stock of the Valley Railroad Company, in the State of Virginia; and from time to time, as may be required for the purpose of paying such subscription, the register of the city is hereby authorized and directed to issue the bonds of the city of Baltimore; the proceeds of the sale of such bonds to be used to pay the quotas of the said city's subscription to said stock, as the same may be called for by the said company; said bonds to be issued in sums of not less than one hundred dollars each, redeemable in fifteen years, and bearing interest at the rate of six per cent. per annum, payable quarterly, and transferable as other city bonds are transferred; provided, however, that such subscription shall not be made until the further sum of two million two hundred thousand dollars shall have been validly subscribed to the stock of said Valley Railroad Company, either by the counties and towns in the Valley of Virginia, or by persons or corporations solvent and able to pay the amounts of their respective subscriptions; nor until at least thirty per cent. of the amount of every subscription which shall be made to said stock by individuals or corporations, other than said counties, shall have been paid in cash to said company; nor unless at least one million of dollars of the aforesaid two million two hundred thousand dollars shall have been subscribed by the said counties and towns in the Valley of Virginia, or by corporations or persons resident

Bonds of city.

Proviso.

Conditions.

therein, and solvent, and able to pay the amount of their respective subscriptions; and provided further, that no payment on such subscription shall be made until provision, satisfactory to the said commissioners of finance, has been made by said Valley Railroad Company, by additional subscriptions of stock or otherwise, for the means to construct and complete said railroad throughout its entire length, from Harrisonburg, in the county of Rockingham, to Salem, in the county of Roanoke, in the State of Virginia; and provided further, that the city of Baltimore, as a stockholder in said Valley Railroad Company, shall be entitled to all the rights and privileges of other persons and corporations holding stock in the same, and that no preference shall be given or allowed by said company to any other stockholders over said city of Baltimore; and provided further, that said subscription shall not be made, nor said debt be contracted, until the same be authorized by an act of the general assembly of Maryland, nor until this ordinance be approved by the votes of a majority of the legal voters of the city of Baltimore, cast at the time and places hereinafter designated.

Proviso.

Preference.

Act of assembly

Ibid, s. 2.

Ordinance to be submitted 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 Thursday next after the passage of an act by the general assembly of Maryland authorizing such subscription and debt; 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 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 ordinance."

Ibid, s. 3.

Returns of judges of election.

Immediately upon the closing of the polls, the judges of election in the several precincts shall count the ballots de-

posited 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 of 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 said mayor shall certify the fact to the presidents of the respective branches of the city council; and this ordinance shall take effect as to such subscription and debt from the date of the said certificate.

Ibid, s 4. 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, twice a week, for two weeks next preceding said election.

Ibid, s. 5. Tickets.

The comptroller is hereby authorized and directed to have printed, tickets of the description mentioned in the second section of this ordinance, and placed at all the polls of said city on the day of the said election; and that the register be and he is hereby authorized and directed 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.

Ibid, s. 6. Certified copy to be sent to general assembly.

The mayor of the city of Baltimore is requested to transmit a duly certified copy of this ordinance to the general assembly of Maryland at its next session, and respectfully request the passage of an act to authorize the subscription and debt provided for in this ordinance.

Ibid, s. 7. When to take effect.

Except as hereinbefore provided, this ordinance shall take effect from its passage.

41. Western Maryland Railroad.

No. 68, s. 1, July 23, '60. Mortgage bonds of company.

After the mayor, register and comptroller of the city, or a majority of them, shall be satisfied that a first mortgage has been duly executed, covering all the property, effects and revenues of the Western Maryland Railroad Company, now built, or to be built, for the sole purpose of securing the principal and interest of certain bonds or certificates of stock issued by the

Western Maryland Railroad Company, to an extent not greater than six hundred thousand dollars, and also upon the oath or affirmation of the president, together with a majority of the directors of said Western Maryland Railroad Company that such is the case, the register is hereby authorized and required, upon the presentation to him, by the treasurer of the said company, either at one time, or from time to time, of the said bonds or certificates of loan of said railroad company, to endorse or guarantee the same for a sum not exceeding seventy-five thousand dollars, as may suit the convenience of said railroad company, in sums of five hundred dollars and one thousand dollars each—said bonds or certificates of stock being payable on the first day of January, 1890, with interest at the rate of six per cent. per annum, payable half yearly in the city of Baltimore, on the first day of January and the first day of July successively in each and every intervening year; in the meanwhile the principal and interest being secured by a pledge of the property and revenues of the said Western Maryland Railroad Company; and also a condition that the said bonds, or certificates of loan, shall not be sold or disposed of by said company at less than par.

Amount.
Guarantee.
Amount of each bond.
When payable.
Property pledged.

Upon the completion of five additional miles of track to that now laid of said railroad by said Western Maryland Railroad Company from Baltimore in the direction of Emmettsburg, satisfactory to the mayor, register and comptroller, or a majority of them, then in that case the register of the city shal in the same manner and conditions as named in the foregoing section of this ordinance, endorse twenty-five thousand dollars more of the said bonds or certificates of loan of said Western Maryland Railroad Company.

Ibid, s. 2.
Additional.
Amount.

When five additional miles between Baltimore and Emmettsburg shall have been completed and in operation, to the satisfaction of the mayor, register and comptroller, or a majority of them, the register of the city shall, in the same man-

Ibid, s. 3.
Additional.

ner and upon the same conditions hereinbefore named, and under aforesaid restrictions, contained in section one of this ordinance, endorse twenty-five thousand dollars additional of the said bonds or certificates of loan.

Amount

Ibid, s. 4. Additional.

When five additional miles of track of said railroad be laid between Baltimore and Emmettsburg, by said Western Maryland Railroad Company, as shall be satisfactory to the mayor, register and comptroller, or a majority of them, then in that case the register of the city shall in the same manner and conditions as named in the first section of this ordinance, endorse twenty-five thousand dollars additional of the said bonds or certificates of loan of said Western Maryland Railroad Company.

Amount.

Ibid, s. 5. Additional.

When five additional miles between Baltimore and Emmettsburg shall have been completed and in operation, to the satisfaction of the mayor, register and comptroller, or a majority of them, the register of the city shall, in the same manner and upon the same conditions hereinbefore named, and under aforesaid restrictions, as contained in section one, endorse twenty-five thousand dollars additional of the said bonds or certificates of loan.

Amount.

Ibid, s. 6. Additional.

When five additional miles of track of said railroad be laid between Baltimore and Emmettsburg by said Western Maryland Railroad Company, as shall be satisfactory to the mayor, register and comptroller, or a majority of them, then in that case the register of the city shall in the same manner and conditions as named in the first section of this ordinance, endorse twenty-five thousand dollars more of the said bonds or certificates of loan of said Western Maryland Railroad Company.

Amount.

Ibid, s. 11. Par value.

The proceeds of the sale of said bonds, both those secured by the first and second mortgages, in the stock market, or elsewhere, which shall not be disposed of at less than par, as provided in section one of this ordinance, in excess of eighty

per cent. shall be placed in the hands of the register of the city, on account of the mayor and city council of Baltimore, to be by him held and invested in said endorsed bonds, or other securities of the city of Baltimore, as a sinking fund for the security of the payment of the principal and interest of said bonds. Sinking fund.

The register's endorsement of the bonds named and described in previous sections of this act, shall either be in writing or by causing said endorsement to be printed or engraved upon the same—said bonds or certificates of loan of the Western Maryland Railroad Company, the guarantee of the mayor and city council of Baltimore, to be signed by the mayor of said city, for the time being, with the corporate seal of said city thereto affixed, in the following words: For value received, the mayor and city council of Baltimore do hereby guarantee the payment of the within bond or certificate of loan, for $——, with interest thereon, according to its tenor, in pursuance of the provisions of an ordinance of the mayor and city council, approved the 23d day of July, in the year 1860, entitled an ordinance to endorse and guarantee a portion of the first mortgage bonds of the Western Maryland Railroad Company, and by the act of the general assembly of Maryland approving the aforesaid ordinance.[1] Ibid, s. 12. Register's endorsement. Corporate seal.

In testimony whereof, ————, mayor of the said city of Baltimore, hath hereto subscribed his name and caused the corporate seal of the said city of Baltimore to be hereto affixed on this —— day of ———, in the year eighteen hundred and ——. Attest.

————, *Mayor.*

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[1] 1860, c. 20, enacted: that the mayor and city council of Baltimore are authorized to endorse or guarantee the payment of the principal and interest on the first mortgage bonds of the Western Maryland Railroad Company to an amount not exceeding in the aggregate two hundred and fifty thousand dollars, in such manner and form as they, the said mayor and city council, may deem best; and the mayor and city council may exercise the authority hereby granted at any time hereafter, as they may deem proper.

Ibid, s. 13. Guarantied.

The coupons attached to said bonds or certificates of loan, named and described in the previous section, shall be guarantied by endorsing in writing, printing or engraving thereon the words, guarantied by the mayor and city council of Baltimore.

_____, *Register.*

The register being authorized to use a stamp with a fac simile of his signature, in lieu of his own proper signature on such coupons.

Ibid, s. 14. Non-payment.

The non-payment by the Western Maryland Railroad Company of the interest, or any part thereof, on the said bonds or certificates of loan, or any of them, thus endorsed, shall be hereby recognized as giving an instant claim for the payment thereof by the mayor and city council of Baltimore, and the

Faith of city pledged.

faith of the said mayor and city council of Baltimore is hereby solemnly pledged to take all such steps as are usual in such cases, and as may be necessary to enable them to meet, without delay, the liabilities incurred by them by the guarantee hereinbefore authorized and confirmed by the act of the general assembly of Maryland; provided, however, that should the register have proof laid before him that any of the funds raised under the provisions of this ordinance are being, or have been, applied towards paying any indebtedness or liabilities of the said Western Maryland Railroad Company, incurred previous to the passage of this ordinance, (or of other violation of any provision herein contained,) all further endorsement of the said bonds shall be withheld; it being

Proviso.

Agreement.

hereby fully understood and agreed upon, between the mayor and city council of Baltimore and the Western Maryland Railroad Company, (on the acceptance by the said company of any of the provisions of this ordinance,) that the money raised by the negotiation and sale of any and all of the said bonds, shall be solely applied towards the extension of the said railroad from its present terminus at Reisterstown to

Further proviso

Hagerstown, Maryland; and provided further, that the said Western Maryland Railroad Company shall have taken the necessary steps by which the city of Baltimore has become

entitled to have a permanent representation of two members in the board of directors of said railroad company; and should the ratio of directors be increased at any time hereafter, on the part of the stockholders, those of the city of Baltimore shall be increased in like proportion; and provided further, that all the necessary expenses that may be incurred in carrying out the several provisions of this ordinance, shall be promptly paid by the Western Maryland Railroad Company.[1]

Two city directors.

Further proviso

No. 73, May 18 '64.

Upon the completion of each mile of track, additional to that now laid, of said railroad from Union bridge in the direction of Hagerstown, Washington county, satisfactory to the mayor, register and comptroller of the city, or a majority of them, the register of the city shall in the same manner provided in the ordinance No. 68, July 23, 1860, of which this is an amendment, for the endorsement of the first mortgage bonds of said railroad company, endorse the second mortgage bonds of said railroad company, to such an amount that the sum of three hundred thousand dollars, the whole amount of such second mortgage bonds to be endorsed under the provisions of this section, shall be distributed rateably over the whole numbers of miles lying on the route adopted, between Union bridge and the border of Washington county, the said register being hereby directed to endorse the said sum of three hundred thousand dollars of said second mortgage bonds in sums equal to the quotient of said three hundred thousand dollars, divided by the number of miles between Union bridge and the line of Washington county, on the route selected; provided, that the Western Maryland Railroad Company shall have first executed and delivered to the register of the city, a good and satisfactory mortgage, covering all the property and effects of the said company that now belong or may hereafter belong to it, as well as all the present and future net revenue of said company, in the name of the mayor and city council of Baltimore, in trust to secure the payment of the principal and interest of the bonds to be

Completion of track.

Register to endorse the second mortgage bonds.

Endorsement pro rata per mile.

Mortgage to be executed.

[1] Sec. 15 of above ordinance was repealed by Ord. No. 15, April 28, '65.

Endorsement by commissioners of Washington county.

endorsed in accordance with the provisions of this section, and those so to be endorsed by the county commissioners of Washington county; said mortgage to take precedence over all other mortgages or other incumbrances upon the property and revenues of the Western Maryland Railroad Company except the first mortgage, already executed; provided further, that before making the endorsement of the second mortgage bonds aforesaid, the register, together with the mayor and comptroller shall be satisfied that the commissioners of Washingto county have bound themselves to endorse similar bonds to the amount of three hundred thousand dollars, upon conditions which will make them available for construction of the road within the limits of Washington county, and that additional stock subscriptions are obtained to the extent of two hundred thousand dollars.[1]

Proviso.

City officers to be satisfied of endorsement of commissioners of Washington county.

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[1] This ordinance recites that the general assembly of Maryland, at the session of 1864, passed an act empowering the county commissioners of Washington county to endorse or guarantee, on behalf of said county, the principal and interest upon the second mortgage bonds of the Western Maryland Railroad Company to an amount not exceeding the sum of three hundred thousand dollars; and that the said county commissioners of Washington county, in the exercise of the authority conferred upon them by that act of assembly, on the 12th day of April, 1864, passed an order for the endorsement of three hundred thousand dollars of the second mortgage bonds of said company; and that the said order provided that the whole amount obtained from the proceeds of the bonds, so to be endorsed, should be expended in the cost and construction of the said road within the limits of Washington county; and it is, therefore, expedient that the assistance to be rendered such road by the mayor and city council of Baltimore should be given in such manner that it may be available for such part of said road as will lie between Union bridge, Carroll county, and the border of Washington county. This ordinance repeals secs. 7, 8, 9 and 10 of Ord. No. 68, July 23, 1860, and substitutes the above section in lieu thereof.

1864, c. 314, provided: that the county commissioners of Washington county are hereby authorized and empowered to endorse or guarantee, on behalf of said county, the principal and interest upon the second mortgage bonds of the Western Maryland Railroad Company to an amount not exceeding three hundred thousand dollars, in such manner and form as they, the said county commissioners, may deem best, and at any time hereafter as they may deem proper. That if it shall become necessary, at any time after said commissioners shall have exercised the authority granted them by the preceding section, to provide for the payment of the principal and interest upon the bonds so endorsed, the said commissioners shall provide for the same by levy upon the assessable property in the said county.

1864, c. 298, enacted: that the mayor and city council of Baltimore are authorized to endorse or guarantee the payment of the principal and interest upon the second mortgage bonds of the Western Maryland Railroad Company, to an amount not exceeding in the aggregate the sum of three hundred thousand dollars, in such manner and form as they, the said mayor and city council may deem best; and declares valid any ordinance heretofore passed by the mayor and city council of Baltimore, for such purpose; and provides that the said mayor and city council may at any time hereafter, exercise the remainder of their authority, so as to endorse or guarantee such second mortgage bonds as they may deem proper.

1865, c. 177, enacted that: whereas by a compact between the city of Baltimore and the Western Maryland Railroad Company, the said city, in consideration of its loan to the said company, became entitled to a permanent representation of two members of the board of directors of the said company, but the mode in which the said directors are to be appointed, remains to be provided for by an amendment of the charter of the said company, that therefore the mayor and city council of Baltimore, shall in the month of October, eighteen hundred and sixty-five, and annually thereafter, nominate, and by and with the advice and consent of a convention of the two branches of the city council, appoint two of the five members of the board of directors of the said company, and that the charter of the said company is hereby altered and amended conformably to the change hereby made in the same. That should the number of directors constituting the said board of directors be at any time hereafter increased on the part of the stockholders, those of the city of Baltimore shall be increased in like proportion. And that this act shall take effect from and on its acceptance by the stockholders representing a majority of said stock.

1866, c. 13, enacted: that the mayor and city council of Baltimore are authorized to subscribe to the capital stock of the Western Maryland Railroad Company, to an amount not exceeding two hundred thousand dollars. And it further enacts, that the said mayor and city council may provide, by ordinance or ordinances, for the mode and terms upon which subscription shall be made, and the money provided to meet it.

And 1866, c. 71, enacted: that the mayor and city council of Baltimore are authorized to contribute towards the construction of the Western Maryland railroad between Hagerstown and Cumberland, the sum of fifteen hundred thousand dollars, either by a subscription to that amount to the capital stock of the said company or by the endorsement of the said company's bonds or by the issue of the city's own bonds, as may be most expedient in the judgment of the said mayor and city council. And it further provides that the said Western Maryland Railroad Company, in the event of the said sum being furnished to the company for the construction of the road as aforesaid, by the said mayor and city council, in either of the modes aforesaid, other than by a subscription to its capital stock, shall be authorized to secure the said city for the amount so advanced or endorsed by a mortgage on its road, property, tolls and revenues, the said mortgage not to have priority over, but to stand upon an equality with other mortgages, to be executed by the said company to the coal and iron companies of Allegany county and the commissioners of said county for similar advances in aid of the said enterprise.

No. 58, Aug. 9, '67. Sinking fund.

Ordinance No. 68, approved July 23d, 1860, and ordinance No. 73, approved May 18th, 1864, are so amended, as that the sinking fund to be held and invested by the register of the city, for the security of the payment of the principal and interest of the second mortgage bonds of said Western Maryland Railroad Company, shall be the same as the sinking fund on the five million loan to the Baltimore and Ohio Railroad Company, namely, ten per cent. of the proceeds of the sale of said bonds in the stock market or elsewhere, and not twenty per cent. as provided for the first mortgage bonds of said company.

Ibid, s. 2. How to endorse bonds.

Section first of said ordinance No. 73, approved May 18, 1864, is so amended as to authorize the register of the city to endorse said second mortgage bonds, to the amount and in the mode and manner specified in said ordinance, as each mile of said road progresses from Union bridge in the direction of Hagerstown, and not when completed, as named in first section of said ordinance.

No. 16, s. 1, Mar. 15, '66. Mayor to subscribe for shares of stock of company.

The mayor of the city of Baltimore is hereby directed to subscribe in the name and behalf of the mayor and city council of Baltimore, to four thousand shares of the capital stock of the Western Maryland Railroad Company, of the par value of fifty dollars each; provided, however, that it shall be specified in and as a part of such subscription, that the money shall not be payable until the county commissioners of Washington county[1] shall have subscribed for three thou-

Proviso.

Commissioners of Washington county.

[1] 1866, c. 19, recites, that the county commissioners of Washington county, did on the 26th September, 1865, pass an order that three thousand shares of the capital stock of the Western Maryland Railroad Company, being of the par value of one hundred and fifty thousand dollars, be and the same is hereby subscribed by and in the name of and for Washington county, upon the condition, nevertheless, that the city of Baltimore, by its corporate authorities, duly subscribe four thousand shares of said stock, being of the par value of two hundred thousand dollars, and upon the condition further, that such stock so as aforesaid subscribed by said county, or the money paid in for the same, shall be first solely and exclusively applied to the construction and completion of said road within the limits of Washington county aforesaid, so far as the same may be required in such construction and completion, and the balance, if any, after such construction and completion wherever otherwise it may be required in its construction and completion, and upon the condition further that said subscription be duly

sand shares of said capital stock, and that the money arising from the subscription hereby directed, shall be expended in the construction of the road of said company from its present terminus at Union bridge to the line of division between the counties of Frederick and Washington.

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authorized and made lawful by the legislature of Maryland; and that the president of said county commissioners be and he is hereby authorized, empowered, directed and required forthwith to make said subscription to said stock for and in the name of Washington county, and upon the conditions and limitations aforesaid; and the said subscription is made upon the further condition that the directors of the said company be increased, and that two of the said directors be taken from Washington county. And said act of 1866, c. 19, then provides that the said order of the said county commissioners of Washington county is declared valid, and that the county commissioners of Washington county are authorized and empowered to subscribe to the capital stock of the Western Maryland Railroad Company, at the time hereinafter mentioned, a sum not exceeding the amount of one hundred and fifty thousand dollars, on the terms and conditions of said order and this act. That said subscription shall not be made until the said railroad shall have been completed and paid for, or until said county commissioners are satisfied that the said road will be made and paid for, to the line dividing Frederick from Washington county, and in the direction of Hagerstown; and for the purpose of raising the said sum of money, so to be subscribed by said county commissioners, they are hereby empowered annually to levy the same on the taxable property of Washington county, whenever the same shall be called for, and in such sums and proportions as the progress of the work through said Washington county shall require; or the said county commissioners shall borrow the said sum from time to time as it may be required as aforesaid, upon the credit of the said county, and to issue bonds, duly executed, for the payment of the same; the said bonds not to be sold under their par value, to bear interest not exceeding six per cent., payable semi-annually, and not to run for a period longer than twenty years, and said bonds shall be exempt from county and municipal taxation, and for the purpose of paying the interest thereon, and to retire the principal, the said county commissioners are hereby empowered and required to levy an annual sum adequate for said purposes. And that said bonds shall not be transferred to said railroad company in payment of said subscription, or any part thereof, but the same shall be sold by the county commissioners of Washington county, and the proceeds paid to said railroad company in payment of the same. 1866, c. 48, provided that the directors in said company be increased by two new members, and two of such directors shall be citizens of Washington county; provided, however, that this act shall take effect only when a subscription to the capital stock of said company, binding upon said county, shall have been made to an amount of not less than one hundred and fifty thousand dollars, and when this act shall have been accepted by the stockholders of said company representing a majority of its stock.

Ibid, s. 2. How subscription paid.

The said subscription shall be paid in city stock, at par, in such instalments and at such times as the same shall be called for by the president and directors of the Western Maryland Railroad

Proviso.

Company; provided said company shall not have power to call for more than the sum of fifteen thousand dollars in any one month, or in greater proportions than are called for from individual stockholders, and as each call shall be made upon the mayor, he shall immediately notify such call to the commissioners of finance, who shall, within one week after such

Certificates of stock.

notification, issue certificates of stock to said company for the amount of such call, bearing an interest of six per centum per annum, payable quarterly, and redeemable at the pleasure of the mayor and city council of Baltimore at any time after the first day of July, 1890.

Ibid, s. 3. Form of certificate.

The certificates of stock to be issued by virtue of this ordinance, shall be in the same form as is provided for in the ordinance relative to the public debt of the city of Baltimore, approved April 3d, 1826, [sec. 3, p. 714, *ante.*]

Ibid, s. 4. City entitled to rights and privileges.

The city of Baltimore shall be entitled, upon payment of the first instalment of the stock hereby subscribed, to all the rights and privileges of a stockholder in said company.

Ibid, s. 5. How subscription to be applied.

The subscription hereby made, together with the subscription of Washington county, shall be applied to the construction of the said road from Hagerstown and Union bridge simultaneously and reciprocally, in fair proportions, that is to say, the work from Hagerstown and from Union bridge shall be commenced at the same time, and shall progress equally and rateably each in the direction of each other, it being the meaning and intention of this ordinance that for every five thousand dollars expended under this subscription, the sum of five thousand dollars shall be expended on the road, commencing at Hagerstown and progressing eastwardly until said road shall be completed, and that the application of the money hereby subscribed shall be subject to the conditions

contained in this section, and shall be applied as hereby provided, subject to the supervision of the mayor, register and comptroller of the city—furthermore, this subscription to the stock of said company shall not be binding on the city unless the location of said road shall be approved by the said officers; and provided further, that a produce and passenger depot of the Western Maryland railroad shall be established west of Jones' falls. Provisos. Depot.

No. 2, Feb. 21, '67. Mayor to vote stock of W. M. R. R. Co.

The mayor of the city of Baltimore is hereby authorized and empowered to vote the stock held by the city of Baltimore in the Western Maryland Railroad Company, either in person or by proxy, at all general or special elections and in all meetings held by the stockholders of said company; provided, that the said city shall not be in arrears in the payment of any instalment as the same is called for by the said company.[1] Proviso.

No. 57, s. 1, June 2, '68. Lien waived in favor of mortgage.

The lien of the mayor and city council under the mortgage heretofore executed to it by the Western Maryland Railroad Company, is hereby waived in favor of a mortgage or mortgages, to be executed by said company, to an amount not exceeding the sum of six hundred thousand dollars; provided, the county commissioners of Washington county shall waive the lien of said county under the said mortgage.[2] Proviso.

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[1] By Res. No. 64, March 16, '68, the mayor was directed to comply with the application of the president and directors of the Western Maryland Railroad Company, by the endorsement of an additional fifty thousand dollars of the bonds of said road, in accordance with the ordinance relating thereto.

[2] 1868, c. 344, provided: that the mayor and city council of Baltimore and the county commissioners of Washington county are authorized and empowered, if in their discretion good policy requires it, to waive their liens and the mortgage heretofore executed to the mayor and city council of Baltimore by the Western Maryland Railroad Company, in favor of a mortgage or mortgages to be executed by said company to such amounts not exceeding the sum of one million dollars, as may be determined by the mayor and city council of Baltimore and the county commissioners of Washington county.

Ibid, s. 6. Location of road.

Said company shall not change the present location of its road, between Westminster in Carroll county and the city of Baltimore, without the consent of the mayor and city council of Baltimore being first had and obtained.[1]

No. 31, s. 1, June 12, '69. One million to be raised.

Hypothecation of stock, B. & O. R. R. Co.

Return of money.

Liability.

Pledged stock.

The register of the city and the commissioners of finance are hereby instructed to raise, on the best terms possible, for the use of the mayor and city council of Baltimore, the sum of one million of dollars, the same to be raised by a pledge or hypothecation of such number of shares of the stock of the Baltimore and Ohio Railroad Company belonging to the mayor and city council of Baltimore as shall be requisite for this purpose; the said mayor and city council of Baltimore retaining to itself the privilege of returning the said sum of one million dollars on the first day of May, 1870, or at such other time thereafter as shall be agreed on by and between the said register and the commissioners of finance and those advancing said money, and it is expressly declared, and it shall be made a part of the terms of agreement between said register and commissioners of finance and those advancing said money, that in no event shall the said mayor and city council of Baltimore be liable or responsible for the return or repayment of any part of the sum of money so advanced on the pledge or hypothecation aforesaid, or of the interest thereon, in case the said stock so pledged shall not sell for enough to repay the said advances and interest thereon, but those advancing the said money shall, in the event of the failure of the said mayor and city council of Baltimore to return the said money so advanced within the time agreed upon for its return, look alone to the stock so as aforesaid to be pledged to them for the return of said advance and all interest thereon.

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[1] This ordinance, under the provisions of its 2d, 3d, 4th and 5th sections, was submitted to the voters of the city of Baltimore and adopted.

The said register and commissioners of finance are hereby instructed to invest the sum of money, to be obtained as provided for in the preceding section, in the bonds of the Western Maryland Railroad Company, to be secured by a mortgage to be executed by said company in a manner satisfactory to the city counsellor; and said mortgage shall cover only the bonds to be delivered to the mayor and city council of Baltimore in accordance with the terms of this ordinance, and shall be next in priority after the mortgages which have been already executed by the said company; and, for the better security of said bonds, said mortgage shall contain appropriate covenants on the part of the said company that the proceeds of said bonds shall be applied only to the construction and equipment of the said railroad to Williamsport; and the said Western Maryland Railroad Company shall be the sole and separate owner of the continuous line between the city of Baltimore and Williamsport, and that the said company shall locate their principal or main work and repair shops and their depot in the city of Baltimore; and said railroad company shall further covenant, by said mortgage, that the sum hereinbefore provided to be invested in its bonds, shall not be demanded of the commissioners of finance and register, except as the money may be required in the completion of said road as provided for in this ordinance.

Ibid, s. 2.
Investment in bonds of company.
Mortgage.
Covenants.

The mayor shall make application to the general assembly of Maryland, at its next session, for the passage of an act to submit to the voters of the city of Baltimore, in accordance with the terms of the constitution of Maryland, the propriety of the endorsement by the mayor and city council of Baltimore of the bonds of the Western Maryland Railroad Company, to be secured by mortgage as aforesaid, to an amount, at the current market value of the bonds after endorsement, sufficient to return the amount advanced upon the hypothecation of the stock of the Baltimore and Ohio Railroad Company, as provided in the first section of this ordinance, and all interest thereon; such submission to be made in the manner to be provided for in a future ordinance; and if the said

Ibid, s. 3.
Act of assembly to submit to voters.
Future ordinance.

act shall be passed by the general assembly of Maryland, and a majority of the votes cast at the election to be provided for by said ordinance shall be in favor of making said endorsement, the register shall endorse said bonds and dispose of the same, with the aid of the commissioners of finance, and apply the proceeds thereof to the payment of the amount advanced upon the hypothecation of the stock of the Baltimore and Ohio Railroad Company, as provided for in the first section of this ordinance, and all interest thereon.

Votes in favor.

Hypothecation of stock, B. & O. R. R. Co.

Ibid, s. 4.

If no act shall pass.

If the said act of assembly shall not be passed, or a majority of the votes cast at such election shall not be in favor of the endorsement of said bonds, the register and the commissioners of finance shall dispose of so much of the said capital stock as may be required to pay the amount which shall have been advanced on the hypothecation of the said stock of the Baltimore and Ohio Railroad Company and the interest thereon.

Votes opposed.

Ibid, s. 5.

Deficiency.

If the authority to endorse the said bonds be obtained, as aforesaid, and the proceeds or sales of the bonds already in the hands of the mayor and city council of Baltimore shall not be sufficient to return the money to be advanced as before provided, with the interest thereon, the Western Maryland Railroad Company shall furnish to the register such additional amount of said bonds as will suffice, when so endorsed, to yield an amount sufficient to pay the deficiency.

Additional bonds.

Ibid, s. 6.

Acceptance by company.

The investment shall not be made in said bonds, as provided in the second section of this ordinance, until a majority in value of the stockholders of the Western Maryland Railroad Company, assembled in a stockholders' meeting, shall have accepted the terms of this ordinance, and pledged the faith of the company that at the next session of the general assembly of Maryland application shall be made by said company for such a modification of its charter as will give to the mayor and city council of Baltimore the appointment of such additional number of directors as will give to it a majority of three members in the board of directors.

Faith of company.

Additional directors.

ARTICLE XLIII.

STREETS AND CITY COMMISSIONER.

STATUTES.

1. Power to open, widen, close, &c., streets, squares, lanes or alleys: damages: appeals: jury trial: compensation.
2. Notice of application.
3. Notice by commissioners.
4. Grade of streets: application.
5. Fixing grades: expenses.
6. Where real estate has been divided in reference to streets to be opened, streets may be opened: proviso: notice.
7. Streets so opened, public highways.
8. Re-paving: renewing curb-stones: application.
9. Expense, how apportioned.
10. Curb-stones.
11. Assessment.
12. Tenant for 99 years, or mortgagee in possession, owner.
13. Infant's guardian.
14. Ordinances for re-paving.
15. Paving, cleaning out, &c., private wharf, dock or street: expenses.
16. Grading, regulating, paving, &c., footways: tax: fine.
17. Altering grade on account of health: duty of mayor and city commissioner: persons to assess damages: award.
18. Changing grade: application.
19. Assent to paving streets.
20. Turnpike roads running into city.
21. Removal of dirt and filth from streets: pavements.
22. Breadth of wheels of wagons, carts and drays.
23. Steps, porticoes, bulk windows, &c.

NORTH AVENUE.

24. Grading and paving of: expenses: appeals.
25. Sections: proposals for paving or grading: cost of work.
26. Assessment: proviso: square.

JONES' FALLS.

27. Owners of property binding on, to build walls: rebuilding or repairing walls: costs, lien.

ORDINANCES.

COMMISSIONERS FOR OPENING STREETS.

1. Three commissioners.
2. Oath or affirmation of commissioners.
3. Oath or affirmation to be recorded.
4. Record of proceedings: recorded orders: city surveyor: compensation: oath of clerk, &c.
5. Assessment for benefits: assignment to be received by register or collector.
6. Notice to be given: award of damages: assessment of those benefitted: expenses and damages: register.

7. Part of house or lot, to ascertain the full value: notice: to sell materials: deed: to receive bond from purchaser: notice.
8. Statement to be placed in Register's office: maps: representations and testimony to be considered: duty of register: right of appeal to City court.
9. Appeal to City court: court to appoint day: right of jury trial: judge to have power to add reasonable costs.
10. Collector to notify parties assessed: sale: notice.
11. Collector authorized to sell property: notice.
12. Mode of sale: collector to re-sell.
13. Collector to execute deed of conveyance: purchase-money.
14. Liens: when to invest in city five per cent. stock.
15. Persons not claiming title may pay amount of assessment: certificate.
16. Temporary commissioners.
17. Ninety days to complete proceedings.
18. Limit of time.
19. Term ofyears.
20. Obstructions to be removed: suit for expenses.
21. Per diem to be assessed.
22. Salaries of commissioners and clerk; expenses.
23. Books and papers to be deposited with register.
24. Deeds from owners of property: opinion of law officers: proviso: square: plat.
25. Public highways.
26. When petitions or remonstrances not entertained: location of property.

PAVING, RE-PAVING AND GRADING.

27. Application for paving unpaved streets, how to be made: notice to be given.
28. Paving, &c., to be contracted for.
29. Proceedings for paving unpaved streets, &c.
30. Record of applications to be kept.
31. Tax to be levied for paving unpaved streets, &c.
32. Paving tax, how to be laid and collected.
33. Taxes may be collected by distress.
34. Payment of tax to contractors.
35. Collector to sue.
36. Rope, &c., may be placed across streets: penalty if removed.
37. Proposals for paving, &c., to be advertised
38. Streets, &c., of the width of twelve feet or less.
39. General regulations for paving, &c.
40. Flag and stepping-stones.
41. Commissioner to examine curb, flag and gutter stones: penalty for setting curb-stones, &c., before inspection.
42. Duty of clerk.
43. Mayor may sign petition.
44. City's proportion of expenses.
45. Application for repaving: curb stones.
46. Two-thirds of cost to be assessed.
47. Duty of collector and register in relation to costs.
48. To examine paving, &c.
49. Water pipes.
50. General regulations for grading and paving footways.
51. Notice to owners of property, when to be published.
52. Notice to be given to proprietors.
53. Proceedings in case of neglect or refusal.
54. Footway tax, how to be collected.
55. May be collected by distress.
56. Register to pay in anticipation.
57. Penalty for refusal.
58. Footways, &c. to be inspected biennially.
59. Footways, how to be paved with stone.
60. Paving bonds to be extended by mayor.

61. Application for grading.
62. Proposals for grading: general regulations.
63. Streets, &c. not condemned: how to be paved.
64. Plat to be made: collector may sell for paving taxes.
65. Contracts, how to be awarded.
66. Grading and paving unpaved streets, &c., notice: proposals.
67. Notice to owners: footways: pavements of brick: fine.
68. Nicholson pavement: proviso.

CITY COMMISSIONER.

69. Appointment: to attend office daily: assistant city commissioner not to be engaged in or connected with other business.
70. Leveling, grading, making, &c., streets; contracts, how approved.
71. Money, how expended, how paid.
72. Duties of assistant city commissioner: work to be correctly measured: record.
73. Bond of commissioner: of assistant: salary.
74. Report to city council.
75. To state street, lane and alley, paved or re-paved: contractors.
76. Heading of documents.
77. Clerk: salary: duties: journal: return to register: bids for work: papers.
78. City commissioner to fix lines of streets, &c., boundaries of lots: land marks.
79. Lines of streets in laying foundations of houses: duty of city commissioner: city surveyor: penalty.
80. Appeal to mayor from determination of city commissioner: commission to disinterested persons: compensation: return of award to register: oath.
81. Duty of mayor: bond for expenses.
82. How expenses to be ascertained.
83. Sewers.
84. Bridges.
85. Trees and grass at Mt. Vernon Place.
86. Injuring or destroying abutment, mound, &c.: penalty.
87. Placing flag and stepping-stones.
88. Dangerous wall or building to be taken down: notice: expenses.
89. To correct wrong numbers of houses: proviso: price of numbers.
90. Repairing and cleaning private wharves, docks, &c.
91. City commissioner to have city buildings constructed and repaired: exception.
92. Register to pay.
93. Record of proposals of public works to be kept.
94. Spouting and gutters: notice: penalty: gutters and down spouts to awnings.
95. Notice: penalty.

JONES' FALLS.

96. City commissioner to notify owners to wall up property.
97. To repair or re-build wall.
98. Refusal or neglect: duty of city commissioner: cost, a lien.
99. Overflow of falls: duty of city commissioner; register to pay.

LAMPS.

100. City commissioner to have lamps and lamp pillars constructed, &c.
101. Register to pay.
102. Name of street on lamp.
103. New lamps to have names on.
104. Destroying lamps, &c.: penalty.
105. Private lamps regulated: provisos: penalty.

SUPERINTENDENTS OF LAMPS AND LAMPLIGHTERS.

106. Appointed by mayor: duties.
107. Light on Sunday night.
108. Compensation of superintendents and lamplighters.
109. Oil.

GAS.

110. Contract between city and gas company: pledge of faith of city: certificate: proviso.
111. Company to furnish estimates.
112. To furnish plat, &c.
113. Refusal or neglect to file certificate.
114. Construction of ordinance.
115. Laying gas mains, &c.: duty of gas company: record in city commissioner's office.
116. Fitting up mains, &c.: how to be made: duty of city commissioner: penalty.

PERMITS FROM CITY COMMISSIONER.

117. Permit to place steam boiler, steam engine, &c.; to erect frame shed, bay window, telegraph pole, &c.: proviso.
118. Application to city commissioner: statement: notice of application: to consider application: when to be granted: cost of permits.
119. Bay windows: how to be constructed.
120. Cost of permit to erect bay window.
121. Permits may be revoked: removal: penalty.
122. Penalty for erecting frame shed larger than permitted.
123. Earth not to be removed from unpaved streets without permission.
124. Ditches not to be dug in lanes or alleys without permission.

VAULTS, AREAS AND CELLARS.

125. City commissioner to give permission to construct: proviso.
126. Penalty for constructing without written permission.
127. How application to be made.
128. Payment to register.
129. Penalty when the number of feet exceeds the number paid for.
130. To be completed within three weeks: proviso.
131. Extent of areas.
132. Areas to be enclosed: proviso:
133. What constitutes vaults and areas.
134. Entrances to cellars to be covered when not in use: penalty.
135. Cellar doors, how to be constructed.
136. Duty of police.
137. Vaults, how to be covered: penalty.
138. Apertures of vaults, how to be covered: penalty: proviso.
139. Precautions while constructing.
140. Removal of covering: penalty.

REGULATIONS.

141. Penalty for firing guns, &c.: exception: firing from aboard vessels.
142. Coal and troughs in streets prohibited.
143. Firewood in streets regulated: penalty.
144. Barrels, hogsheads, boxes, &c. penalty: not more than one-half of footway to be used.
145. When streets may be obstructed: goods liable to inspection regulated.
146. Goods, &c., not to project more than three feet: wheelbarrows on footways prohibited: proviso.
147. Builder's privileges: penalty: more than one-third of streets not to be occupied without permission of mayor.
148. May enclose the fronts of houses.
149. Slate and other roofs regulated: repairs to same regulated: penalty.
150. Lumber, &c., regulated: notice from city commissioner or police: penalty.
151. Horses not to be shod or fires made in streets: penalty: proviso: when fires allowed.
152. Pent houses and awnings regulated: penalty.

153. Sign-posts, figures, &c.: proviso.
154. Penalty for injuring trees in streets, &c.: proviso: removal of trees by city commissioner.
155. Water from gutters not to be thrown on streets.
156. Snow to be removed from footways: exception: penalty: ice: notice: penalty.
157. Duty of police with respect to snow, &c.
158. Bulky articles not to be thrown from windows: sliding boards, &c., regulated: penalty: proviso.
159. Destroying bills posted for advertisement.
160. Penalty: proviso: consent of owners of property: bills to be dated.
161. Penalty for playing bandy, flying kites, throwing stones, &c.

HORSES, SWINE, &c.

162. Horses, carts, &c., not to occupy certain streets.
163. What carts, &c., excepted: provisos.
164. Conditions.
165. Carts, &c., not used to sell from, to be removed: penalty.
166. Driving cattle, sheep, &c., in streets, regulated.
167. Swine not permitted to lie down in streets: penalty.
168. Swine not permitted to go at large: when taken up, how disposed of.
169. Appropriation.
170. Goats going at large may be killed or seized.
171. Appropriation.
172. Penalty on owners.

STATUTES.

P. L. L. art. 4, sec. 837.

Power to open, widen, close, &c., streets, squares, lanes or alleys.

1. The mayor and city council of Baltimore shall have full power to provide for laying out, opening, extending, widening, straightening or closing up in whole or in part, any street, square, lane or alley, within the bounds of said city, which in their opinion the public welfare or convenience may require; to provide for ascertaining whether any, and what amount in value, of damage will be caused thereby, and what amount of benefit will thereby accrue to the owner or possessor of any ground or improvements within or adjacent to said city for which such owner or possessor ought to be compensated, or ought to pay a compensation, and to provide for assessing and levying, either generally on the whole assessable property of said city, or specially on the property of persons benefitted, the whole or any part of the amount of damages and expenses which they shall ascertain will be incurred in locating, opening, extending, widening, straightening or closing up the

Damages.

Appeals.

whole or any part of any street, square, lane or alley, in said city; to provide for granting appeals[1] to the Baltimore City Court, from the decisions of any commissioners, or other persons appointed in virtue of any ordinance, to ascertain the damage which will be caused or the benefit which will accrue to the owners or possessors of ground or improvements by locating, opening, extending, widening, straightening or clos-

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[1] The jurisdiction over these appeals is now vested by Const. 1867, Art. 4, Sec. 28, in the Baltimore City Court. The jurisdiction of the Criminal Court in this matter, ceased with Const. 1864, Art. 4, Sec. 36, and Art 4, Sec. 33, and that of the Superior Court with Const. 1867. See *Mayor, &c.* v. *Clunet*, 23 Md. 449.

P. G. L. Art. 29, Secs. 51-53, provided that: said court, (Superior Court,) shall have and exercise jurisdiction in appeals from the decisions of any commissioners or other persons appointed in virtue of any ordinance to ascertain the damage which will be caused, or the benefit which will accrue to the owners or possessors of grounds or improvements by locating, opening, extending, widening, straightening or closing up, in whole or in part, any street, square, lane or alley within the city of Baltimore.

The appeal from the assessment of the commissioners shall be taken within thirty days after the expiration of the notice of such assessment required to be given by the city.

An appeal may be taken to the Court of Appeals from any decision on matter of law made by said court, in an appeal taken under the two last preceding sections; provided, such appeal be taken within thirty days after such decision shall have been made. See Const., Art. 4, Sec. 33, appeals to Supreme Bench.

1865, c. 144, provided that: all appeals from decisions on matters of law, made by the courts of Baltimore city, in relation to the streets in said city, shall stand for hearing in the Court of Appeals, at the first term after the transmission of the record. See Const., Art. 4, Sec. 15.

Act of 1838, c. 226, (sec. 1, &c., above,) gave the mayor and city council of Baltimore power to lay out, widen, extend, &c., streets within the bounds of the city, and to provide for compensation to the owners of land taken by assessing and levying the same, or any part thereof, either generally upon all the assessable property in the city, or specially on the property of persons benefitted; and also gave the power of appeal to (old) Baltimore City Court, from decisions of any commissioners who might be appointed under the authority of the city, &c., securing a review of the assessment by a jury. Held, that this act was a constitutional exercise of legislative power, and that all proceeding of the city in conformity to it were valid, and that a court of equity had no jurisdiction to supervise or re-examine the proceedings and judgment of the court, to which an appeal was taken. *Alexander & Wilson* v. *The Mayor of Balt.* 5 Gill, 383. *The M. P. Church* v. *Mayor, &c., of Balt.*, 6 Gill, 391. *Richardson* v. *Mayor, &c., of Balt.* 8 Gill, 433. *Mayor, &c.* v. *Bouldin*, 23 Md. 330.

Upon a bill to enjoin the defendants from collecting a tax imposed by the street commissioners of Balimore city upon the property of the complainants, for

ing up, in whole or in part, any street, square, lane or alley within said city, and for securing to every such owner and possessor the right, on application within a reasonable time, to have decided by a jury trial whether any damage has been caused, or any benefit has accrued to them, and to what amount; to provide for collecting and paying over the amount of compensation adjudged to each person entitled, or investing it in stock of the said corporation, bearing an interest of five per centum per annum, for the use of any such persons who, because of their infancy, absence from the city, or any other cause, may be prevented from receiving it, before any street, square, lane or alley, in whole or in part, shall be so

Jury trial.

Compensation.

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widening a street, the acts of assembly and ordinances of the city having given to all persons considering themselves aggrieved by the proceedings of said commissioners, the right of appeal to court, which remedy the complainants failed to take, it was held, that a court of chancery had no jurisdiction, and the injunction was dissolved. *M. P. Church* v. *The Mayor, &c. of Balto.*, 2 Md. Ch. Dec. 78, 6 Gill, 391. See *Mayor, &c. of Balt.* v. *Porter*, 18 Md. 301.

Upon a bill filed by the appellants, alleging that the damages for opening and extending streets in the city of Baltimore, secured to them by the above statutes, had not been assessed to them by the street commissioners of said city, in their proceeding for the extension of said streets, and that upon appeal to court, the jury had, also, in their assessment of damages, made no assessment of damages to the complainants, who were, thereby, absolutely denied the rights vested in them by said act, the chancellor granted an injunction restraining the appellee from collecting the assessments made by the jury. The answer of the appellee averred, that the provisions of the said act of assembly were especially brought to the attention of the jury, and fully discussed, and deliberately considered by them. The chancellor thereupon ordered the injunction to be dissolved, which order was affirmed upon appeal. *Richardson* v. *Mayor, &c. of Balt.* 8 Gill, 433.

If the owner of private property taken for public uses under the above statutes, does not appeal within the prescribed time, and the compensation assessed be paid or tendered, the property may be taken for public use: the neglect or refusal to appeal is considered a waiver, or abandonment of the right to have the damages awarded by a jury, and as an agreement to take the compensation determined by the assessment. The act of 1838, c. 226, and the ordinance of the city of Baltimore for the opening of streets, &c., passed in pursuance thereof, giving the right of appeal from the decision of the commissioners to court, and any ordinance for the opening of a particular street thereunder, were held constitutional and valid. *Stuart* v. *Mayor, &c.*, 7 Md. 500. See *Moale* v. *Mayor, &c.*, 5 Md. 314. *Stewart* v. *State*, 20 Md. 97. *State* v. *Graves*, 19 Md. 369.

See other decisions at end of this article.

opened, extended, widened, straightened or closed up, and to enact and pass all ordinances from time to time which shall be deemed necessary and proper to exercise the powers and effect the objects above specified.

Ibid, sec. 838. Notice of application.

2. Before the mayor and city council shall pass any ordinance under the preceding section, at least sixty days' notice shall be given of any application for the passage of such ordinance, in at least two of the daily newspapers in the said city.

Ibid, sec. 839. Notice by commissioners.

3. Before any commissioners appointed by any ordinance of said corporation under the preceding two sections shall proceed to the performance of their duty, they shall give notice in at least two of the daily newspapers in the city of Baltimore of the object of the ordinance under which they propose to act, at least thirty days before the time of their first meeting to execute the same.

Ibid, 840. Grade of streets

Application.

4. The mayor and city council may fix and establish the permanent grade of all the streets, lanes and alleys marked, located and laid out upon the plan of said city, whenever application shall be made therefor by persons owning more than one-half of the ground fronting on the streets, lanes or alleys respectively required to be graded, although such streets, lanes or alleys shall not have been opened, nor an application for that purpose made.

Ibid, sec. 841. Fixing grades.

Expenses.

5. They may provide from time to time by general ordinance for fixing and establishing such grades, through the commissioners or other persons to be appointed or employed, as such ordinances may direct, and on application to such commissioners or persons, and notice of such application as may by the said ordinance be prescribed; and the expenses of such grading shall be paid as such ordinance shall direct.

Ibid, sec. 842. Where real estate has been divided in reference to streets to be opened, streets may be opened.

6. Where real estate within the said city has been or may be divided according to law, among heirs, legatees, joint tenants or tenants in common, entitled to the same, and such division calls for any of the streets, lanes or alleys, or any

part or parts thereof, surveyed and laid off under the law of 1817, or reserves any of the said streets, lanes or alleys, or any part or parts thereof, as open, and divides such estate with reference thereto, the mayor and city council may, on application of one or more persons interested in the ground to be taken on such application, adopt and sanction by ordinance the principal under which such division was had, and open any of the said streets, lanes or alleys, or any parts thereof, in the said division reserved or recognized; provided, at least one week's notice in the newspapers of said city (the cost of the advertisement to be paid by the applicants) be given of such application before any such ordinance shall pass.

Proviso.

Notice.

7. All the streets, lanes or alleys opened in the manner directed in the last preceding section shall be public highways, and be subject to the laws, regulations and ordinances applicable to public streets, lanes or alleys, or parts thereof, in said city.

Ibid, sec. 843.

Streets so opened, public highways.

8. The mayor and city council shall have full power to repave and renew the curb stones on any street, lane or alley, or any part thereof, whenever the owner of two-thirds of the property on such street, lane or alley, or any part of such street, lane or alley, shall make application to the mayor to have the same re-paved and the curb stones renewed.

Ibid, sec. 844.

Repaving: renewing curb stones.

Application to mayor.

9. The expense of such re-paving and renewal of curb stones shall be paid in the following manner: the mayor and city council shall pay the whole expense of re-paving any street, lane or alley, crossing the street, lane or alley to be re-paved, and one-third of the expense of the renewal of curb stones, and the remaining two-thirds of the expense shall be paid by the owners of property in proportion to the number of front feet which they respectively own on such street, lane or alley, or on such part thereof as shall be re-paved.

Ibid, sec. 845.

Expense, how apportioned.

10. The curb stones shall be of such description as shall be specified in the application to the mayor.

Ibid, sec. 846.

Curb stones.

Ibid, sec. 847. Assessment.

11. They shall, whenever application shall be made to the mayor for re-paving any street, lane or alley, have full power to assess upon the owners of property on the street, lane or alley, or part thereof to be re-paved, their proportional part of the expenses thereof, and to collect the same in like manner as other taxes are collected.

Ibid, sec. 848. Tenant for 99 years or mortgagee in possession, owner.

12. A tenant for ninety-nine years, or for ninety-nine years renewable forever, and the executor or adminisrator of such tenant and a mortgagee in possession, shall be deemed and taken as an owner for the purpose of laying and collecting such tax.

Ibid, sec. 849. Infant's guardian.

13. The guardian of an infant owner shall have full power on behalf of his ward to make application for re-paving.

Ibid, sec. 850. Ordinances for re-paving.

14. The mayor and city council may pass any ordinance or ordinances necessary and proper to carry into effect the powers vested in them in relation to re-paving streets.

Ibid, sec. 851. Paving, cleaning out, &c. private wharf, dock or street.

15. They may, on the application of a majority of feet in front of any private wharf, dock, street, lane or alley, cause the same to be paved, cleaned out, mended, or otherwise re-paved or kept in good condition or repair, and may impose upon and collect from all the proprietors of the property so to be cleaned out or repaired a tax sufficient in amount to defray the expenses thereof, which shall be assessed upon the proprietors in proportion to the number of feet held by them respectively in front, or length, and shall be collected by the mayor and city council as taxes levied for paving public streets.

Expenses.

Ibid, sec, 852. Grading, regulating, paving, &c. footways.

16. They may pass all ordinances necessary for grading, regulating, paving and repairing the footways in the streets, lanes and alleys of the city, and impose a tax on any lot or lots fronting on any paved street, lane or alley for the purpose of grading, regulating, paving or repairing the footways in front thereof, or compel, by fine or otherwise, the owner or proprietor of any lot or lots to pave or repair the footways

Tax.

Fine.

in front thereof, agreeably to the ordinances to be passed by them.

Ibid, sec. 843. Altering grade on account of health.

17. Whenever the board of health shall certify in writing to the mayor that it is necessary for the health of the city to alter the grade of any street, lane or alley on low or made ground, the mayor shall issue his order to the city commissioner, who shall thereupon call upon the several property holders on such street, lane or alley, and procure from them their assent in writing to such alteration; and if any property holder shall refuse to permit the same to be graded, and shall require damages therefor, and cannot agree with the commissioners as to the amount of damages, or should there be any legal disability on the part of those owning property on such street, lane or alley, the judge of the Baltimore City Court, on application of the corporation, shall appoint three disinterested persons to assess such damages, who shall return on oath their award to said court, and the same shall be confirmed by the court unless cause to the contrary be shown; in which case the court shall at the first term thereafter decide finally thereon; and when the damages so assessed or agreed upon shall be paid by the corporation of the city to the persons so assessed and legally entitled to receive the same, the corporation may proceed to re-grade and pave the said street, lane or alley.

Duty of mayor and city commissioner.

Persons to assess damages.

Award.

Ibid, sec. 855. Changing grade

18. They may pass such ordinances for the purpose of altering or changing the grade of any street, lane or alley as they may deem advisable; but no such alterations shall be made unless the proprietors of the greater number of feet of ground binding or fronting on that part of the street, lane or alley, the grade of which is to be altered, shall first make application in writing to the mayor and city council for such change or alteration.

Application.

Ibid, sec. 861. Assent to paving streets.

19. They shall not cause any unpaved street, lane or alley within said city to be paved without the assent in writing of

the proprietors of a majority of the ground binding and fronting thereon, or the part thereof to be paved.

Ibid, sec. 857. Turnpike roads running into city.

20. The president, directors and companies of the different turnpike companies owning roads running into the city of Baltimore, may cede to said city such parts of said roads as lie within the corporate limits of said city, and the same when ceded shall be in all respects subject to the same regulations as unpaved public streets.[1]

Ibid, sec. 862. Removal of dirt and filth from streets.

Pavements.

Lamps.

21. The mayor and city council of Baltimore shall have power to clean the streets and remove the dirt and filth therefrom, and to prohibit and punish by ordinance the placing of any dirt, filth or other matter therein, and may protect any pavement by prohibiting the travel thereon; and the said mayor and city council may also erect lamps in any of the streets, lanes or alleys of said city, and cause the same to be lighted at the expense of the city.

Ibid, sec. 863. Breadth of wheels of wagons, carts and drays.

22. The mayor and city council may regulate the breadth of the wheels of wagons, carts and drays, to be used for hauling burdens on the streets of said city, not to affect persons hauling produce to the said city.

Ibid, sec. 864. Steps, porticoes, bulk windows, &c.

23. They shall have power to pass ordinances regulating the limits within which it shall be lawful to erect steps, porticoes, bulk windows, or other architectural ornaments to houses fronting on any of the streets, lanes or alleys of said city.

NORTH AVENUE.

Ibid, sec. 858. Grading and paving of North avenue.

24. The mayor and city council may, on application to them in writing of a majority in front feet of the owners of land in Baltimore county and in the city of Baltimore fronting on North avenue, or in any part thereof, have the same, or such part thereof as such majority may apply for, graded and paved, if in their opinion consistent with the public good;

[1] As to Railroads, see p. 571, *ante*.

and provide for ascertaining whether any and what amount of benefit or damage will be caused thereby to the owners of the land on each side of said North avenue, both in said city and Baltimore county, for which said owners ought to be compensated, or ought to pay a compensation by reason thereof; and may provide for assessing and levying on the property of persons benefitted within the same limits, the expenses thereof, in the same manner as if the same were a street in said city, with the same right of appeal from any assessment of benefit or damage as is provided for appeals within the city of Baltimore or Baltimore county in similar cases.

Expenses. Appeals.

25. They shall, before they proceed to grade or pave that portion of North avenue lying between the Northern Central railroad and Pennsylvania avenue, divide the same into sections, as near as may be, not less than five, and shall advertise in the usual manner for proposals for paving or grading, or both; and the contracts shall be awarded to the lowest bidder, if he give good security for the same, but the division into sestions shall not apply to the cost of executing the work, which shall be levied generally from Pennsylvania avenue to the Northern Central railroad.

Ibid, sec. 859. Sections. Proposals for paving or grading. Cost of work.

26. Any assessment levied or charged upon the property along the line of said avenue, which is designated on Popplеton's plat of said city as the bed of a street, shall be paid by the city of Baltimore; provided, the owner or owners thereof shall convey not less than one square of the said street to said corporation within thirty days after said assessment shall have been made, by a good and sufficient deed in fee for that purpose.[1]

Ibid, sec. 860. Assessment. Proviso. Square.

[1] 1864, c. 188, provided for paying the costs and expenses of grading North avenue, from Pennsylvania avenue to the Northern Central railroad, by the mayor and city council. 1864, c. 344, empowered the mayor and city council to collect and receive from the property holders on both sides of North avenue, as well in Baltimore county as in the city, the sums severally assessed to them for the grading of said avenue. As to authority to grade, see *Mayor, &c.*, v. *Porter*, 18 Md. 284. *Horn* v. *Mayor, &c.*, 29 Md.

With regard to a proposed Boundary avenue or Boulevard, see Res. No. 124, June 12, 1851; No. 138, June 21, 1851, and No. 114, May 28, 1852, and report of Park Commission, Jan. 1, 1869.

JONES' FALLS.

1864, c. 163. Owners of property binding on Jones' falls to build walls.

27. The mayor and city council of Baltimore may, whenever they deem it necessary, compel any individuals, companies or bodies politic, owning property binding on Jones' falls, within the limits of the city, to wall up such property, so far as the same may bind on the falls, with a good and sufficient stone wall, to such height as in their judgment the public good may require, and to have the same backed up or filled in with earth, so as to secure the same and the adjacent property from danger of being inundated with water; and the said mayor and city council may, whenever they deem it necessary, compel any individuals, companies or bodies politic, to rebuild or repair, in a good and sufficient manner, any stone wall owned by them and binding on Jones' falls, within the city limits; and should any individuals, companies or bodies politic neglect or refuse to wall up Jones' falls, rebuild or repair any such wall within the limits of the city of Baltimore, when required so to do by the mayor and city council, the said mayor and city council may cause the same to be done; and they are hereby authorized and empowered to recover the costs of such wall, rebuilding or repairing, by suit at law, from the party or parties who may have refused or neglected to build, rebuild or repair such wall, and the cost of such wall shall be a lien on the property so walled up or repaired.

Rebuilding or repairing walls.

Costs.

Lien.

ORDINANCES.

COMMISSIONERS FOR OPENING STREETS.

No. 26, s. 1, April 3, '66. Three commissioners.

1. There shall be annually appointed, as other city officers are appointed, three commissioners for opening streets in the city of Baltimore.

Ibid, s. 2. Oath or affirmation of commissioners.

2. In each and every case, before the commissioners shall proceed to act as a board, in the exercise of the powers confided to them by this or any future ordinance, they shall severally take and subscribe the following oath or affirmation

before some justice of the peace: I, A. B., do swear, or solemnly, sincerely and truly declare and affirm, that I will, to the best of my judgment, knowledge and ability, faithfully, impartially and diligently execute the duties of a commissioner for opening streets in the city of Baltimore, according to an ordinance entitled an ordinance to provide for exercising certain powers vested in this corporation, in relation to streets in the city of Baltimore.

Ibid, s. 3. Oath or affirmation to be recorded and certified to.

3. The said oath or affirmation shall be recorded in a book to be provided by the said commissioners for the recording of their proceedings; and the justice in whose presence the said oath or affirmation shall be made and subscribed, shall certify thereto under his hand and in the same book.

Ibid. s. 4; No. 53, Aug. 7. '67. Record of proceedings.

4. The said commissioners shall employ a clerk in each case, who shall keep a full and true record of all their proceedings, in a book provided as aforesaid, under the direction and supervision of the city counsellor or city solicitor, and in such form as he may prescribe. And the clerk so employed shall record all orders made by the said commissioners in regard to the performance of their duties, and make true copies of all notices by them directed to be published, and the certificate of the publication thereof; and shall perform such other necessary duties as the said commissioners shall require. And the said commissioners shall also have the power to obtain the services of the city surveyor, and such other assistants and agents as they may deem necessary, in the exercise of their powers, and allow to each of the persons so employed by them such compensation as may be fixed by ordinance, and if not so fixed, as the said commissioners may deem reasonable, and assess the said compensation and all other necessary charges; and the clerk and other persons to be so employed, shall severally take and subscribe an oath or affirmatian similar in substance to that required to be taken and subscribed by the commissioners, which shall be in like manner entered in the record of proceedings of the said commissioners.

Recorded orders.

City Surveyor.

Compensation.

Oath of clerk, &c.

Ibid s. 5.
Assessment for benefits.

5. When the said commissioners shall assess a sum of money, to be paid by any person or persons for benefits derived by such person or persons by opening, widening or closing any street, lane or alley, or part thereof, and shall assess a sum of money to be paid to the same person or persons for injury sustained by said opening, widening or closing, it shall and may be lawful, upon a certificate of title from the solicitor of the city, for the register or collector to receive from such person or persons an assignmeut for the sum or sums so assessed, as damages as aforesaid.

Assignment to be received by register or collector.

Ibid s. 6.
Notice to be given.

6. Whenever the mayor and city council shall hereafter, by ordinance, direct the commissioners for opening streets to lay out, open, extend, widen, straighten or close up, in whole or in part, any street, square, lane or alley, within the bounds of this city, the said commissioners shall give at least thirty days' notice, in at least two of the daily newspapers of the city, of the object of the ordinance under which they are about to act, and of the day, hour and place of their first meeting under the said ordinance; and the said commissioners shall meet at the time and place mentioned in the notice given by them, and proceed to exercise the power and perform the duty assigned to and required of them, under and by virtue of this ordinance, and ascertain whether any and what amount in value of damage will thereby be caused to the owner of any right or interest claimed in any ground or improvements within or adjacent to the said city, over and above the amount in value of benefit which will thereby accrue to such owner, for which, taking into consideration all advantages and disadvantages, such owner ought to be compensated; and in addition thereto shall award to the occupant or occupants of any lot of ground, or of any improvement that may be removed, such damages, if any, as the commissioners, or a majority of them, may believe such party or parties have sustained by such removal; and the said commissioners, after having ascertained the whole amount of damages as aforesaid, and after having added thereto an estimate, made by

Award of damages.

them, of the probable amount of expenses which will be incurred in the performance of the duties required of them as aforesaid, and also the expense incurred by the register under the provisions of this ordinance, shall proceed to assess all the ground and improvements within and adjacent to the city, the owners of which, as such, the said commissioners shall decide and deem to be directly benefited by accomplishing the object authorized in the ordinance aforesaid; and should the direct benefits, assessed as aforesaid, not be equal to the damages and expenses incurred, the balance of said expenses and damages shall be paid by the city register and be taken out of the general levy, subject, nevertheless, to all such restrictions exempting certain descriptions of property from assessment as are contained in any law of the State, or in this ordinance or in any other ordinance of the city.

Assessment of those benefited.

Expenses and damages.

Register.

7. In every case where it shall be necessary in order to effect the object proposed, that a part only of a house and lot, or of a lot, shall be taken and used or destroyed, and the owner or owners thereof shall claim to be compensated for the whole, the said commissioners shall ascertain the full value thereof, 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 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

Ibid s. 7.

Part of house and lot.

To ascertain the full value.

Notice.

To sell materials.

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,

Deeds. 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

To receive bond from purchaser. 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

To re-sell. with the terms of said sale, the commissioners shall resell the said property or materials at the risk of the former purchaser or purchasers, giving not less than five days' notice of

Notice. said sale in two of the daily newspapers of the city aforesaid.

Ibid s. 8, No. 29. Ap'l 23, '68. 8. As soon as the commissioners aforesaid shall have completed the valuation of damages ascertained by them, as

Statement to be placed in register's office. directed by the sixth section of this ordinance, they shall cause a statement thereof to be made out and placed in the office of the register of the city, for the inspection of all persons desiring information of its contents, and such statement,

Maps. together with an explanatory map or maps, shall contain a correct description of each separate lot or parcel of ground deemed to have sustained damages, its length and breadth, the name of any street, square, lane or alley on which it bounds, the names of all persons who shall claim any estate or interest in it, and the amount of damages as valued by the commis-

sioners, and if there be any house or other improvement on it necessary to be removed, in whole or in part, a description of the size and such other particulars as the commissioners shall deem proper; and in like manner a description of each parcel of ground deemed by the commissioners to be benefited, the name or names of such person or persons as shall claim any estate or interest therein, and the amount assessed thereon for benefits; and the commissioners shall cause a notice to be published, four successive days, in three daily newspapers of the city, stating the extent of the ground covered by the assessment, and that such statement and map or maps have been so deposited with the register for examination; and that the commissioners will meet at the office of the commissioners for opening streets on a day in such notice to be named, which shall be within ten days after the first publication of such notice, to review any of the several matters set forth in the said statement, to which any person claiming to be interested therein shall, on that day, so appointed, make objection, and the commissioners shall meet at the time and place so appointed, and consider all such representations and testimony on oath or affirmation, verbal or in writing, in relation to any matter in said statement, which shall be offered to them on behalf of any person claiming to be interested therein; and the said commissioners shall make all such corrections and alterations in the valuations, assessments and estimates, and all other matters contained in the said statements and explanatory map or maps aforesaid, as, in their judgment, shall appear to them, or a majority of them, to be just and proper; and they may adjourn from day to day, if necessary, to give all parties claiming a review an opportunity to be heard, not exceeding in the whole ten days; and after closing such review, the commissioners shall make all such corrections in their statement and explanatory map or maps, as they shall deem proper, and cause such statement and map or maps, so corrected and certified under the hands and seals of said commissioners and their clerk, to be deposited in the office of the register as one of the records of the city; and it shall be

Notice.

Representations and testimony to be considered

Statements and Maps.

Duty of register the duty of the register, within five days after said proceedings shall have been deposited in his office, to notify all persons interested, by an advertisement, to be inserted once a week for four successive weeks, in three of the daily newspapers of the city, that the said assessment and maps have been so placed in his office, and that the parties interested
Right of appeal therein are entitled to appeal therefrom, by petition, in writing, to the Baltimore City Court.

Ibid, s. 9, No. 29, April 28, '68. Appeal to City Court. 9. Any person or persons, or corporations, who may be dissatisfied with the assessment of damages or benefits, as hereintofore provided, may, within thirty days after the return of the corrected statement and map or maps to the register, as provided in the eighth section of this ordinance, and the first publication of the notice thereof by the register, appeal therefrom by petition, in writing, to the Baltimore City Court, praying the said court to review the same, and on any such
Court to appoint day. appeal the court may, and shall, appoint a day for hearing said appeal, which shall not be less than five or more than thirty days after the expiration of the thirty days limited for taking appeals as aforesaid, and shall direct the clerk of the said court to issue a subpœna duces tecun to the register of the city, requiring him to produce and deliver to said court the record of the proceedings of the board of commissioners in the case, and all maps, plats, documents and papers connected with such record; and the said City Court shall have
Duty of Court. full power to hear and fully examine the subject, and decide on the said appeal, and for that purpose is hereby authorized and empowered to adjourn from time to time, and may cause all such appeals to be consolidated, or may hear and decide them separately, and may require the said commissioners, their clerk, surveyor, or other agents and servants, or any of them, and all such other persons as the court shall deem necessary to attend, and examine them on oath or affirmation, and may permit and require all such explanations, amendments and additions to be made to and of the said record of the proceedings as the said court shall deem requisite; and the persons appealing to the Baltimore City Court,

as aforesaid, shall be secured in the right of a jury trial; and the said court shall direct the sheriff of Baltimore city to summon twelve or more persons, qualified to be jurors, and shall empannel any twelve disinterested persons so summoned, or attending the court, to try any question of facts, and, if necessary, to view any property in the city, or adjacent thereto, to ascertain and decide on the amount of damages or benefit, under the direction of the court; and the said court shall not reject or set aside the record of the proceedings of the said commissioners for any defect or omission in either form or substance, but shall amend or supply all such defects and omissions, and increase or reduce the amount of damages and benefits assessed, and alter, modify and correct the said return of proceedings, in all or any of its parts, as the said court shall deem just and proper; and shall cause the proceedings and decisions on said returns and appeals to be entered in the book containing the record of the proceedings of the commissioners, certified by the clerk, under the seal of the court, and the book to be transmitted to the register of the city, which shall be final and conclusive in every respect, unless an appeal be taken to the Court of Appeals, and such record book, or a copy of the proceedings therein, or any part of such proceedings, whether in court or out of court, certified by the register of the city, under the corporate seal of the city, shall be evidence in any court in this State; and the judge of the Baltimore City Court shall have full power, in his discretion, to add the reasonable costs of any appeal, to be taxed by him, or any part thereof, to the damages to be collected for opening or closing said street, or to require such cost, or any part thereof, to be paid by all or by either of the appellants as the circumstances of each appeal, in his opinion, shall justify.

Right of jury trial.

Judge to have power to add reasonable costs.

10. If no appeal shall have been prayed within ten days after the time hereinbefore limited therefor, or after the return of the decision upon any appeal shall have been made to the register, the said register shall transfer the said commissioners'

Ibid, s. 10, Collector to notify parties assessed.

return to the collector, who shall proceed forthwith to notify the parties assessed for benefits, by means of bills specifying the several sums so assessed, and warning them that if the same be not paid within six months from the date of such transfer of said commissioners' returns, he will proceed to sell the specific pieces or parts of property on which such unpaid sum or sums of money shall have been assessed in the manner, and after having given the notice directed by the eleventh section of this ordinance.

Sale.

Notice.

Ibid, s. 11. Collector authorized to sell property.

11. If the sums assessed upon the property certified, shall not be paid within the time above limited, the collector shall be and he is hereby authorized and directed to sell the property, or any part thereof on which such assessment has been laid, giving not less than thirty days nor more than sixty days' notice of said sale in two of the daily newspapers published in the city of Baltimore; said notice to be published within ten days after the expiration of the time limited in the tenth section for the payments of said benefits, and the moneys so collected by the collector shall be paid over by him to the mayor and city council of Baltimore, as other moneys are directed to be paid over, and by them to the persons entitled to receive the same.

Notice.

Ibid, s. 12. Mode of sale.

12. In all cases in which the city collector shall sell any property on account of the non-payment of assessments made for the opening, closing, widening or extension of any street, lane or alley, it shall be his duty to sell said property to the extent, and subject to the same conditions which are provided by ordinance for the sale of real estate in the city of Baltimore, charged with the payment of other taxes imposed by this corporation; and in the event of the purchaser or purchasers failing forthwith to comply with the terms of said sale, the collector shall re-sell the same at the risk of the former purchaser, giving not less than ten days' notice in two of the daily newspapers of the city aforesaid; and after collecting the benefit assessments, he shall forthwith return the said commissioners' proceedings to the comptroller.

Collector to re-sell.

Return to comptroller.

13. The collector, on receiving the full amount of the purchase money on such sale, shall execute a deed of conveyance in favor of the purchaser or purchasers, or their assign or assigns, which deed shall convey a fee simple or leasehold estate, as the case may be, in and to such property, and after deducting the costs of sales, advertising, and other necessary expenses, he shall pay the balance of such purchase money to the mayor and city council of Baltimore, who shall pay over the said balance, after deducting the amount assessed on said property, to the person or persons entitled thereto, on demand, without interest. Ibid, s. 13. Collector to execute deed of conveyance. Purchase money.

14. All sums of money assessed by the commissioners aforesaid, upon property deemed by them to be benefited, shall be and continue liens on each several piece of property so assessed, to the amount of its particular assessment, until the same shall be paid to the city; but, no part of any street, square, lane or alley, shall be opened on or over the ground of any person or persons, or corporation, adjudged by the commissioners to be entitled to damages for said opening, without the consent, in writing, of the person or corporation so entitled, until such damages shall be paid, or the amount thereof invested in the city five per cent. stock, for the use of each person or corporation entitled to any part of the compensation for such damages, to the amount of his, her or their respective right and interest therein, of which investment the register's certificate, under the corporate seal of the city, shall be competent proof. Ibid, s. 14. Liens. When to invest in city five per cent. stock.

15. Any person or persons not claiming title to any lot or piece of property upon which any sums shall be assessed, as aforesaid, may pay the amount of the sum so assessed, within the time limited, to the register of the city, and obtain his certificate of having paid such sum without claiming title to the property; and such payment shall vest in the person or persons paying his, her or their heirs, the lien on such lot or property mentioned in the fourteenth section of this ordinance. Ibid, s. 15. Persons not claiming title may pay amount of assessment. Certificate.

Ibid, s. 16. Temporary commissioners.

16. If it should so happen that any one or more of said commissioners should be interested in any particular case, the mayor shall make a temporary appointment of a commissioner or commissioners, to act in the place and stead of such interested commissioner or commissioners, who shall take the oath or affirmation, as the case may be, and in all respects conduct himself as the commissioners who are annually appointed.

Ibid, s. 17. Ninety days to complete proceedings.

17. In case the said commissioners shall commence any proceedings by virtue of this or any future ordinance, they shall be allowed not exceeding ninety days to complete the same; provided, should said commissioners ascertain it to be impracticable so to complete the said proceedings, they shall make to the mayor and city council a full and explicit report of the cause or causes of such inability, together with all such other matters connected therewith, as the mayor and city council may from time to time require, and shall suspend all further proceedings until otherwise directed.

Ibid, s. 18. Limit of time.

18. The said commissioners for opening streets shall proceed to close all their work, notwithstanding they may not be re-appointed within six months from and after the expiration of the time for which they were appointed by virtue of the first section of this ordinance.

Ibid, s. 19. Term of years.

19. Whenever any lot, or part of a lot, or parcel of ground may be taken and included within the lines of any street, lane or alley, or part thereof, and damages assessed therefor, and there shall be an outstanding unexpired term of years therein, the said commissioners shall discriminate in their proceedings between the value of fee simple or ground rent interest, and the leasehold interest.

Ibid, s. 20. Obstructions to be removed.

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 to cause the same to be re-

moved, and to draw on the register for the expenses so incurred, which shall be paid by him; and the mayor shall forthwith cause a suit for the recovery of said expenses, to be instituted against the person or persons by whose default the said obstruction has been suffered to remain, and the same, when recovered, shall be paid to the register for the use of the city.

Suit for expenses.

21. In each case of laying out, opening, extending, widening, straightening or closing up, in whole or in part, any street, square, lane or alley, under the provisions of this ordinance, the said commissioners shall, for each and every day in which they and their clerk shall be actually engaged in the performance of their duties, assess, as part of the expenses of their proceedings, a per diem as to each of said commissioners and their clerk, of four dollars, to be collected as other expenses are, and to be paid to the register for the use of the city.

Ibid, s. 21. Per diem to be assessed.

22. The salary of each of said commissioners shall be twelve hundred dollars per annum, and that of their clerk twelve hundred dollars per annum, to be paid as other city officers are paid; the said payment to be in full satisfaction of all compensation for the duties required of them. When the proceeding in any case arising under this ordinance are transferred by the register to the collector, the register is authorized and required to pay all the expenses incurred by the commissioners under the said proceedings.

Ibid, s. 22; No. 53, Aug. 7, '67. Salaries of commissioners and clerk.

Expenses.

23. The commissioners for opening streets, so soon as they shall have completed their work on each street, shall deposit all papers and books relating thereto in the office of the register.

Ibid, s. 23. Books and papers to be deposited with register.

24. Whenever the owner or owners of the bed of any of the streets, lanes or alleys of the city, as laid out on Popplеton's plat, shall offer to convey the same to the corporation, it shall be the duty of the mayor to obtain the opinion of the city council or city solicitor in relation to the legality of the deed or deeds, and, if in the opinion of the mayor, it will be right and proper, and the public good will result therefrom,

Ibid, s. 24; No. 92, June 18, '59. Deeds from owners of property.

Opinion of law officers.

he is hereby authorized to receive, in the name of the mayor and city council of Baltimore, any deed or deeds so offered to the city; provided that no deed shall be for less than one whole square, and that the city shall not incur any expense in receiving the same; and that a plat setting forth the location together with the surrounding property to the extent of two hundred feet, shall accompany said deed.

Proviso.
Square.
Plat.

Ibid, s. 25.
Public highways.

25. Whenever any street, lane or alley, or part thereof, shall be conveyed to the city, as provided for in the twenty-fourth section, the same shall be a public highway, subject to all ordinances and resolutions of the mayor and city council relating to streets, lanes and alleys in the city of Baltimore.

Ibid, s. 26.
When petitions or remonstrances not entertained.
Location of property.

26. The mayor and city council of Baltimore will not entertain any petition for or remonstrance against the opening, widening, straightening or closing of any street, lane or alley in the city of Baltimore, unless the signers of such petition or remonstrance shall state the location of the property they represent, together with the number of front feet of the same.[1]

PAVING, RE-PAVING AND GRADING.

No. 13, s. 1, R. O.
Application for paving unpaved streets, how to be made.

27. When the city commissioner shall receive an application, in writing, for paving to be done in any unpaved street, lane or alley, or any part of such street, lane or alley, from the proprietors of a majority of the feet of ground binding

[1] This ordinance re-enacts with amendments R. O. No. 15, and supersedes Ord. No. 4, Feb. 28, '61, which abolished the office of the commissioners for opening streets, and conferred their powers on the Appeal Tax Court. Ord. No. 59, May 26, '66, enacted: that the commissioners for opening streets are hereby authorized and required to open, widen, straighten or close all streets, lanes or alleys in the city of Baltimore, the said opening, widening, straightening or closing whereof, had been provided for or required by any ordinance which has not been acted under by the Appeal Tax Court; and said commissioners shall proceed in accordance with the above ordinance No. 26, April 3, '66, adopting and applying to all said streets lanes and alleys, all the provisions and requirements of said ordinance; provided, that nothing herein contained shall be construed to prevent the Appeal Tax Court from completely executing any ordinance in reference to the opening, widening, straightening, or closing of any street, lane or alley, under which any proceedings have heretofore been had.

and fronting on such street, lane or alley, or the part thereof to be paved, it shall be the duty of the said commissioner to give seven days' public notice, by an advertisement in three or more newspapers printed in the city of Baltimore, having the largest circulation, of the fact of such application, as also of the time and place when said commissioner intends to act, for the purpose of determining on such application.[1]

Notice to be given.

28. Whenever the city commissioner shall determine to pave or repave any street, lane or alley in the city of Baltimore, under this ordinance, he is hereby directed to receive proposals, and to make contracts for the grading, for a supply of curb, gutter and flag stones and for the paving, and for the setting of the curb, gutter and flag stones of such street, lane or alley; and all streets, lanes or alleys, hereafter, shall be graded to the building line at the time of paving such street, lane or alley.

Ibid, s. 2. Paving, &c. to be contracted for.

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[1] Ordinance No. 47, May 11, 1857, enacted: that the city surveyor be required to run profiles of all the streets in the city of Baltimore, the grades of which have not been established by law, and deposit drawings of the same with the city commissioner; that the city commissioner shall, upon the receipt of said profiles, proceed to establish the grades of said streets, and should he deem it necessary, may have any maps drawn by the city surveyor showing the heights above mid tide of the intersections of said streets, which may, in his judgment, be necessary to enable him to come to a more rapid decision in establishing said grades; that the city commissioner shall keep the expenses of said establishment of grade, and charge each square with its proportion of the expense; the said expense to be collected from the property holders when said squares of said streets shall be graded or paved, as per ordinances heretofore passed or which may be passed hereafter; that the city commissioner shall cause permanent bench marks to be made in each of the public squares of the city and on the base of the Battle and Washington monuments, in some permanent point of stone, and that he have the heights above mid tide of said bench marks recorded in register's, city surveyor's, and his office, as the permanent base upon which these surveys shall depend; to prevent the injury which must result from a premature establishment of the grades under this ordinance, that until the completion of the system under this ordinance, the city commissioner shall establish such grades as are required under the ordinances now in force.

Ord. No. 77, Sept. 28, '68, recites: that it is desirable that railway tracks in the city should be so constructed as that they should cross or pass along the streets below the grade thereof wherever practicable; and that the Northern Central Railway Company desires to remove the tracks of its railway leading to Calvert station, from their present location, to the northeastern side

Ibid, s. 3. Proceedings for paving unpaved streets, &c.

29. The commissioner, with the approbation of the mayor testified in writing, on the list of names of the proprietors, hereinafter mentioned, may proceed to pave any unpaved street, lane or alley, or any unpaved part of any street, lane or alley, having first complied with the requisitions hereinbefore directed, and reserving for footways one-fifth of the whole width of said street, on each side thereof.

Ibid, s. 4. Record of applications to be kept.

30. It shall be the duty of the city commissioner, or his clerk, to record in a book kept by him for that purpose, all applications to pave, together with the determination of the said commissioners thereon, and also, in cases of determination to pave, the approbation of the mayor.

Approbation of mayor.

Ibid, s. 5. Tax to be levied for paving unpaved streets, &c.

31. Whenever it shall be determined to pave any unpaved street, lane or alley, or part thereof, in the city of Baltimore, according to the statutes of the State and the ordinances of the city, a tax shall be and hereby is imposed upon the owner or owners of property fronting or binding upon such street, lane

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of Jones' falls, and desires so to construct its new tracks as that wherever they cross or pass along streets, the said tracks shall be constructed below the grade of said streets wherever such method of construction is practicable; and that the owners of a majority of the feet of ground fronting and binding on the streets named in this ordinance, have presented to the mayor and city council their petition, asking the grades of said streets may be changed between the points named in this ordinance; therefore it enacts: that the grade of Charles street, between Hoffman and Lanvale streets, and the grade of Eager street, between North and Buren streets, be raised and changed under the direction of the mayor and city commissioner, so as to enable the Northern Central Railway Company to construct its railway tracks under said streets, and all open cuts along Hoffman and other streets shall be tunnelled by the said railway company; that the present track belonging to the said Northern Central Railway Company, extending from Cathedral street to Eager street, shall be removed by said company within three months after the new tracks are ready for operation, under a penalty of fifty dollars for each day said present track shall remain after the expiration of said three months; all expenses to be paid by company.

Ord. No. 75, Sept. 26, '68, enacts: that the Union Railroad Company of Baltimore are authorized to raise the grade of Greenmount avenue at its intersection with Hoffman street, from four to six feet from what it now is, and Charles street at its intersection with the old Falls road, between Lanvale and Federal streets, to an elevation of from eight to eleven feet, all of which shall be done under the supervision of the city commissioner, and be properly graded, paved and bridged; expenses to be paid by company.

or alley, or the part thereof to be paved, equal in amount to the whole expense of regulating, paving, furnishing and setting curb and gutter stones, and collecting the same, except cross streets; and it shall be the duty of the city commissioner to assess and lay the said tax, upon the owner or owners of property upon each side of said street, lane or alley, or the part thereof to be paved, of one-half of so much of said street, lane or alley, as may be in front of such property, except that part of such street, lane or alley reserved by ordinance for footways; and the said tax shall be assessed and levied upon, and collected from the owner or owners of said property; and said tax shall be a lien upon such property, and in no case whatever shall the city be made responsible for the paving done in compliance with the provisions of this section, and a clause to that effect shall be inserted in all contracts to pave.

Footways.

Contracts to pave.

32. Whenever the city commissioner shall determine on paving any street, lane or alley in the said city, he shall make, or cause to be made, a correct list of the names of the persons who are liable to pay the paving tax, and the amount to be paid by each person; and he is hereby directed to deliver to the collector a duplicate of such amount, under his hand and seal, with directions for collecting the said tax, nevertheless correcting any mistake in the said list as often as he may be satisfied of the same; and the said tax shall be due immediately on making out said list.

Ibid, s. 6, Paving tax, how to be laid and collected.

Collector.

33. The said collector shall collect the same by distress or otherwise, giving sixty days' notice previous to distress, and pay over the same to the register.

Ibid, s. 7. Taxes may be collected by distress.

34. The city commissioner is hereby authorized and directed to draw on the register of the city for such amount of the tax, and pay over the same to the contractor or contractors for the paving of the particular street, lane or alley where the tax may be collected.

Ibid, s. 8. Payment of tax to contractors.

35. It shall be the duty of the collector, when required so to do in writing by any contractor or contractors having

Ibid, s. 9. Collector to sue.

any claim against any person or persons, for paving or grading done, or materials furnished under this ordinance, to commence a suit against such person or persons, on behalf of the person having such claim, in the name of the mayor and city council of Baltimore.

Ibid, s. 10. Rope, &c., may be placed across streets.

36. The city commissioner is hereby authorized and empowered to erect, set up or place a rope, chain or bar in or across any of the streets, lanes or alleys of the city, which he may be about to pave, mend or repair, for such time as he may think necessary, and if any person or persons shall throw down, remove or obstruct such rope, chain or bar, every such person shall forfeit and pay, for every such offence, the sum of ten dollars.

Penalty if removed.

Ibid, s. 11. Proposals for paving, &c., to be advertised.

37. The city commissioner shall, on application made to him in writing, to pave any street, lane or alley, advertise for the space of one week, in two or more newspapers, for proposals for paving and grading the said street, lane or alley, or part thereof, agreeably to the extent and location which the said commissioner shall describe in his advertisement for said proposals.

Ibid, s. 12. Streets, &c., of the width of twenty feet or less.

38. All streets, lanes or alleys, of the width of twenty feet or less, hereafter to be paved, may be paved without curbstones; provided the owners of a majority of front feet binding thereon shall assent to the same, and the commissioner aforesaid shall deem it advisable so to pave such street, lane or alley.

Ibid, s. 13. General regulations for paving, &c.

39. All paving shall be done with river pebble, or such stone as may be considered sufficiently durable by said commissioner, in size from five to seven inches in diameter, and at least seven inches in length, to be placed upright in a bed of sharp sand or gravel, at least one foot in depth; provided, that after any paving is made, the interstices shall be filled up with stone, of a size and quality to be prescribed by the commissioner; and the contractor, or person contracting to pave or repair, shall give satisfactory security, to be approved by

Proviso.

the mayor, to keep said pavement in repair for two years; and the said commissioner is hereby authorized and directed to procure hard curb and gutter stone, for all the footways that shall be made, the gutter stone not to be less than ten inches in breadth, eight inches in depth, and not less than one foot long; the curb stone shall not be less than four inches in thickness, and not less than eighteen inches in breadth or depth, and not less than four feet in length, and one edge thereof, which is to be fitted to the foot pavement, shall be straight and levelled to the pitch of the footways, and dressed to the depth of three inches to receive the brick pavement, and the two ends shall also be made straight, and the upper edge in front of each street shall be of equal thickness as nearly as may be practicable; provided, that in paving streets, lanes or alleys, of the width of twenty feet or less, the city commissioner, when requested so to do by the owner, may in his discretion, make the gutter of such street, lane or alley in the centre thereof, in which case, the curb stones to be used may be of the depth of fifteen inches; and all curb stones hereafter shall be set in a bed of sharp sand or gravel, as is hereinbefore provided for the paving. Proviso.

40. The city commissioner is hereby directed to incorporate in all contracts for paving or repaving any of the streets, lanes or alleys of the city of Baltimore, a provision for putting down flag or stepping stones across all the streets, lanes or alleys (when paved or repaved) at all their intersections with each other, and all flag stones hereafter used, shall not be less than three feet wide and five inches thick, and the joinings to be made at an angle with the line of the street, and to be fitted or jointed for the whole thickness of the stone, and to be securely bedded in sharp sand or gravel. Ibid, s. 14. Flag and stepping stones. Contracts.

41. It shall be the duty of the city commissioner, or his assistant, from time to time, to examine all curb, flag and gutter stone or stones, intended to be used for paving, previously to being used in any street; and all such curb, flag, gutter or paving stone, not conforming to the provisions of this ordi- Ibid, s. 15. Commissioner to examine curb, flag and gutter stones.

nance, shall be condemned and rejected by him; and it shall also be his duty to examine all paving previously to any sand being thrown thereon, and if the same shall not be laid in a good and substantial manner, and in accordance with the above provisions, he shall cause the same to be taken up and repaved at the cost and charge of the said contractor or contractors therefor; and if any contractor or contractors shall set any curb, flag or gutter stone, or cover any paving with sand previously to the same having been inspected by the commissioner or his assistant, he or they shall forfeit and pay a fine of twenty dollars for every such offence.

Penalty for setting curb stones, &c, before inspection.

Ibid, s. 16.

42. It shall be the duty of the clerk of the city commissioner, whenever any contract is made for paving, immediately to make out, certify and return to the comptroller's office, a duplicate thereof, to be filed and safely kept in said office.

Duty of clerk.

Comptroller.

Ibid, s. 17.

43. The mayor shall have full power and authority, whenever he may deem it advisable, to sign on behalf of this corporation, any petition or petitions for the paving of streets, or parts of streets, lanes or alleys, on which may front any property belonging to the city.

Mayor may sign petition.

Ibid, s. 18.

44. The city commissioner is hereby directed, when he has determined to pave any street, lane or alley, upon an application signed by the mayor, on behalf of the corporation, in making out the warrants for the collection of the expenses of paving such street, lane or alley, to make out also, and hand over to the comptroller, an account of the city's portion of the same, and the register is hereby authorized and required, with the approbation of the mayor, to pay the amount to the contractor or contractors, out of any money in the treasury not otherwise appropriated.

City's proportion of expenses.

Comptroller.

Ibid, s. 19.

45. Whenever the owners of two-thirds of the property on any street, lane or alley, or any part of any street, lane or alley in the city of Baltimore, shall make application in writing, to the mayor, to have the same repaved, and the curb stones renewed in conformity with the statutes of the State,

Application for repaving.

Curbstones.

and he shall approve the same, he shall refer the application to the city commissioner, with such approval endorsed thereon.

Ibid, s. 20. Two-thirds of cost to be assessed.

46. It shall be the duty of the city commissioner to proceed in the manner prescribed by this ordinance for new pavements, except that in assessing the cost of said repavement and renewal of curb stones, upon the proprietors of lots fronting on the street, lane or alley, or part of the street, lane or alley to be repaved, he shall assess only two-thirds of said cost.

Ibid, s. 21. Duty of collector and register in relation to costs.

47. In relation to the said two-thirds of said cost, the duty of the collector and register of the city shall be the same as is prescribed in relation to the whole cost by this ordinance in case of new pavements, and the remaining one-third of said cost, and the whole expense of repaving the cross streets, shall be paid by the register out of any unappropriated money in the treasury.

Ibid, s. 22. To examine paving, &c.

48. It shall not be lawful to pay to any contractor or contractors, for the paving or repaving of any street, lane or alley, any sums of money which may be due him or them, on account of paving or repaving the intersections of such streets, lanes or alleys, until the city commissioner shall, by personal examination, be satisfied that the provisions of this ordinance in regard to the paving stone, sand, curb stone, flag and stepping stones, and the execution of the work, have been fully complied with.

Ibid, s. 23. Water pipes.

49. Whenever any water pipes are in a decayed or leaky state, in any street, lane or alley about to be repaved, the mayor and city commissioner shall not allow the repavement to proceed until said pipes are repaired or renewed.

Ibid, s. 24. General regulations for grading and paving footways.

50. The city commissioner shall have full power to grade and regulate the footways in all paved streets, lanes and alleys in the city of Baltimoré, and all streets, lanes and alleys

hereafter to be paved, repaved or repaired, to the grade of five-eights of an inch ascent for every foot in width of such footways, from the top of the curb stone to the line of the street, lane or alley in which such footway may be paved, repaved or repaired, and to regulate all gutters across said footways, which, unless covered with wood, stone or brick, on a level with the surface of the footway, shall not be deeper than three inches.

Ibid, s. 25.
Notice to owners of property, when to be published.

51. The city commissioner is hereby authorized and directed, in all cases where the owner or owners of ground fronting on any of the paved streets, lanes or alleys of the city, cannot be found at the time said footways are out of order, to cause to be published in three or more of the daily papers having the largest circulation, published in the city of Baltimore, at least five times, the locality and number of feet of such lot or lots of ground, and notice of his intention to have the footways of such lot or lots paved, repaved or repaired, as the case may be, and in case said lot or lots shall not be paved, repaved or repaired within the time specified in said notice, said commissioner shall have the footways of such lot or lots paved, repaved or repaired, and shall hand over to the collector his warrant, to be by him collected as herein provided.

Collector.

Ibid, s. 26.
Notice of order to be given to proprietors.

52. The said city commissioner shall cause notice of said order to be given to the proprietor or proprietors of the lot or lots in front of which a footway is required to be filled up, dug down, paved or repaved, in manner following, that is to say: the said order, or a copy thereof, may be left at any house on such lot, or served personally on the proprietor or proprietors, or his, her or their tenant agent or guardian, or left at his, her or their residence, or a copy of such order may be published in one or more of the newspapers of the city, not less than five times, notice in any of which modes shall be deemed sufficient.

Ibid, s. 27. Proceedings in case of neglect or refusal.

53. If the proprietor or proprietors of any lot or lots fronting on any paved street, lane or alley, shall neglect or refuse to fill up, dig down, pave or repair the footways in front of such lot or lots, for the space of ten days after service of a printed or written order, or copy thereof, in manner as aforesaid, to be reckoned in case of a publication in a newspaper, from the first publication, then the said city commissioner shall be and he is hereby authorized and directed to have the said footways filled up, dug down, paved or repaved with brick, in a sufficient and substantial manner, or repaired in such manner as he, the said city commissioner, shall think proper, and a tax shall be and is hereby imposed upon each respective lot in front of which the footways shall have been so filled up, dug down, paved or repaired, equal to the expense of such filling up, digging down, paving or repairing, with an addition thereto of three per cent. for the expense of collecting.

Ibid, s. 28. Footway tax, how to be collected.

54. The city commissioner shall issue his warrant to the collector, approved by the mayor, for the collection of said tax, containing the names of the person or persons who are to pay such tax, and the amount to be paid by each, nevertheless correcting any mistake in the said list as often as he may be satisfied of the same, and the said tax shall be due immediately on making out said warrant, which the said city commissioner may do as soon as he can ascertain the expense incurred or to be incurred, and such tax shall be a lien upon all such lots.

Lien.

Ibid, s. 29. May be collected by distress.

55. The said collector shall immediately collect the same by distress or otherwise, giving sixty days' notice previously to distress, and pay over the same to the register.

Ibid, s. 30. Register to pay in anticipation.

56. The city commissioner is hereby authorized, with the approbation of the mayor, to draw on the register of the city in anticipation of such tax, for such sum or sums of money as may be necessary to fill up, dig down, pave or repair any such footways.

Ibid, s. 31. Penalty for refusal.

57. If any person or persons shall neglect or refuse to fill up, dig down, pave or repave any footway in front of his, her or their lot or lots, when required so to do by the city commissioner in the manner hereinbefore provided, such person or persons shall forfeit and pay twenty-five cents per front foot, every day such person or persons shall refuse or neglect to fill up, dig down, pave or repave as aforesaid, as a fine for such neglect or refusal; and it shall be the duty of the city commissioner, when he issues his warrant for the said tax, to take the necessary steps for enforcing the said fine.

Ibid, s. 32. Footways, &c., to be inspected biennially.

58. It shall be the duty of the city commissioner, in conjunction with the marshal of police, biennially to inspect all the footways, flag and stepping stones within the corporate limits of the city, and cause the same (where required) to be immediately repaved or repaired, in conformity to the provisions of sections fifty, fifty-one, fifty-three, fifty-seven and sixty-seven of this ordinance.

Ibid, s. 33. Footways, how to be paved with stone.

59. It shall not be lawful for any person or persons to pave any of the footways binding on any of the streets, lanes or alleys of the city of Baltimore, with stone, unless the same shall be put down with good and sufficient flag stones, parallel with the curb stone on said street, lane or alley, under a penalty of one dollar for every front foot.

Ibid, s. 34. Paving bonds, to be extended by mayor.

60. The mayor is hereby authorized to extend the time of bonds for paving or repaving the streets; lanes or alleys, upon his being assured by the city commissioner that the work cannot be completed consistently with the public interests, within the time limited in the bonds.

Ibid, s. 35. Application for grading.

61. Whenever the owners of the majority of front feet of ground of any ungraded street, lane or alley within the city, shall make application in writing to the city commissioner to have the street, lane or alley, or part thereof, graded, it shall be the duty of the said commissioner to give public notice, in

the same way as he is required to do by section twenty-seven of this ordinance, in relation to paving an unpaved street.

62. Whenever the city commissioner, with the approbation of the mayor, shall determine to grade any street, lane or alley, or part of any street, lane or alley, under this ordinance, he is hereby directed to advertise for proposals for the same, and to impose a tax upon the owner or owners of property fronting and binding upon such street, lane or alley, or the part thereof to be graded, equal in amount to the whole expense of regulating, grading and collecting the same, except cross streets; and the said tax shall be assessed and levied upon and collected from the owner or owners of the said property, and shall be a lien upon such property; and in no case whatever, shall the city be made responsible for the grading done in compliance with this ordinance, and a clause to that effect shall be inserted in the contract to grade; and the said city commissioner, the collector and register, shall be governed in all other respects by the provisions of this ordinance in relation to the paving of streets.

Ibid, s. 36. Proposals for grading. General regulations. Contract to grade.

63. The several regulations prescribed by ordinance relative to streets, shall be construed to extend to all streets, lanes and alleys which are opened, but which have not been formally condemned as public, as fully as to any streets, lanes or alleys which have been regularly condemned in pursuance of any law or ordinance; provided, the proprietors of all the lots binding on any such street, lane or alley, shall assent to the extending of such regulations.

Ibid, s. 37. Streets, &c., not condemned, how to be paved. Proviso.

64. In all cases where a tax shall be assessed for paving or repaving any street, lane or alley, or part thereof, in the city of Baltimore, which it may be the duty of the collector to collect, the city commissioner is hereby required to have a plat made of the property on which such tax is assessed, and to transmit, when required by the city collector, with the other matters which he is required to furnish, a note of the

Ibid, s. 38. Plat to be made.

front and depth, and a description of each lot of ground on account of which such tax may have been assessed; and the said tax shall be a lien upon said property, taking precedence of all other liens, except other taxes laid at the time of such assessment, and binding upon each and all interests which may be held in said property; and the collector is hereby authorized, in addition to the other modes of enforcing payment of such taxes which he is already empowered to take, to sell the said property, in the manner and under the circumstances, and to the extent, and subject to the same conditions which are or may be provided by ordinance for the sale of real estate in the city of Baltimore, charged with the payment of other taxes imposed by said corporation.

Collector may sell for paving taxes.

Ibid, s. 39.

Contracts, how to be awarded.

65. The city commissioner, with the approbation of the mayor, shall consummate all contracts with such person or persons as shall have public work awarded them, pursuant to Art. I, City Charter, sub title, city contracts,[1] whenever such awards have been made under advertisement issued by him for proposals for such public work.

No. 34. Mar. 23, '59.

Grading and paving unpaved streets, &c.

66. Whenever the city commissioner shall have to grade and pave any unpaved street, lane or alley in the city of Baltimore, either at the written request of the property holders binding on said street, lane or alley, or by an ordinance of the mayor and city council, under authority of the statutes, it shall be his duty first to give public notice in two or more of the daily papers published in the city of Baltimore, for the space of at least ten days, that proposals will be received for said grading and paving, and that the contract shall be given to the lowest responsible bidder.

Notice.

Proposals.

No. 71, July 13, '68.

Notice to owners.

67. The city commissioner is authorized to direct and require by written or printed order, the proprietor or proprietors of any lot or lots fronting on any of the paved streets, lanes or alleys of the city, to fill up, or dig down to the proper

[1] p. 43, *ante*.

grade, or to pave or repair the footways in front of such lot or lots, with a good and sufficient brick pavement on a bed of good sharp sand, not less than six inches deep, within ten days after notice of such order; the said footways in front of unimproved lots to be paved with good and substantial brick four feet from the curb stone, and all the thoroughfares or business streets of the city, shall be paved to the building line, if thought requisite by the city commissioner, and in case of refusal or neglect by the proprietor or proprietors of any lot or lots of ground to comply with the requirements of the said commissioner, the owner or owners of said lot or lots of ground shall be subject to a fine of ten dollars for each and every day such notice or order shall remain uncomplied with, to be recovered as other fines and forfeitures are recoverable.

Footways.

Pavements of brick.

Fine.

68. Whenever application shall be made to the city commissioner to have paved or re-paved any street, lane or alley of the city of Baltimore, or whenever said paving or repaving shall be done by virtue of an ordinance of the mayor and city council of Baltimore, it shall be optional with the owners of a majority of the front feet of ground binding upon said street, lane or alley, whether the said paving or repaving shall be with stone, or what is known as the Nicholson, or any other improved pavement; and provided further, that when any paving or repaving is to be done in front of any property owned by the corporation of the city of Baltimore, the mayor, comptroller and city commissioner shall decide whether it shall be paved with stone or any improved pavement.

No. 65, Oct. 19, '67.

Nicholson pavement.

Owners to choose their paving.

Proviso.

CITY COMMISSIONER.

69. There shall be appointed, annually, as other city officers are now appointed, one city commissioner, who shall attend daily at his office, and there shall also be appointed annually one assistant city commissioner, who shall be under the direction of the said city commissioner, and the entire time of both commissioner and assistant shall be devoted personally to the interests of the corporation, and should it be ascer-

No. 6, s. 1, Feb. 14, '63.

Appointment of city commissioner and assistant.

To attend office daily.

Assistant city commissioner. Not to be engaged or connected with other business. Removal.

tained that either of the aforesaid officers is engaged or connected with any business or pursuit other than that appertaining to his official duties, it shall be deemed good and sufficient cause for his or their removal by the mayor.

Ibid, s. 2. Leveling, grading, making, &c., streets.

70. The department of the city commissioner shall include the leveling, grading, making, mending or repairing the streets, lanes, alleys, bridges and sewers, and contracting with any person for materials for the purpose aforesaid, said contracts having been approved by the mayor, register and comptroller of the city, and with as many workmen as he may judge necessary to be employed from time to time in and about the same.

Contracts, how approved.

Ibid, s. 3. Money expended—how paid.

71. All moneys appropriated for the department of the city commissioner shall be expended under his direction, and paid by the register to his order, when approved by the mayor, on the certificate of the comptroller.

Ibid, s. 4. Duties of assistant city commissioner.

72. It shall be the duty of the assistant city commissioner to attend to all duties that may be required of him by the city commissioner, and before any repairs of paved streets are proceeded with, the said city commissioner shall have correctly measured the work to be done, and the clerk to the city commissioner shall keep a record of such measurement, and the payments shall be made in accordance therewith.

Work to be correctly measured Record.

Ibid, s. 5; No. 23, Mar. 19, '64; No. 4, Feb. 3, '65; No. 37, May 6, '68. Bond of commissioner.

73. Said commissioner and assistant commissioner, before entering upon the duties of their several offices, shall severally give bond with security for the faithful performance of their duties, the commissioner in the penal sum of ten thousand dollars, and the assistant in the sum of five thousand dollars, and there shall be appropriated, annually, the sum of three thousand dollars for the salary of the city commissioner, payable monthly, and for the salary of the assistant commissioner, fifteen hundred dollars, payable monthly.

Of assistant.

Salary.

No. 6, s. 6, Feb. 14, '63. Report to city council.

74. It shall be the duty of the city commissioner, annually, to lay before the city council, in the first week of the annual

session, a report of his proceedings, with an abstract of the expenditures of the office, signed by him.

75. It shall be the duty of the city commissioner, in making his annual report to the mayor and city council, to furnish a statement of the several streets, lanes and alleys, or parts thereof, that have been paved or repaved during the year, together with the names of the contractors, the number of square feet and the sum per square foot paid for paving or repaving, as the case may be, and to state explicitly whether all the provisions of the ordinances relating to paving and repaving, and the duties required of the city commissioner, have been complied with.

Ibid, s. 7.
To state street, lane and alley paved or repaved.
Contractors.

76. All warrants and other documents issued by the city commissioner, or connected with his department, shall be headed: "city commissioner's office."

Ibid, s. 8.
Heading of documents.

77. There shall be appointed by the city commissioner, a clerk to said commissioner, whose compensation shall be twelve hundred dollars a year, payable monthly, and who shall keep a fair journal of all proceedings in the office, as far as they may relate to the condemnation, grading or leveling of the streets, lanes and alleys, and the establishment of boundaries or the making and repairing of sewers, and the building and repairing of bridges, and shall return them, under the hand and seal of the commissioner, at least once in every three months, to the register of the city, to be by him recorded and filed in his office; and he shall carefully preserve all bids for work to be done, and all papers belonging to persons having business with the city commissioner's office.

Ibid, s. 9, No. 23, Mar. 19, '64; No. 53, Aug. 7, '67; No. 37, May 6, '68.
Clerk—salary.
Duties.
Journal.
Return to register.
Bids for work.
Papers.

78. The city commissioner shall have full power and authority, and he is hereby authorized and required, when applied to by any person requiring the same, to ascertain and fix the lines of any of the streets, lanes and alleys, or any boundary of any of the lots within said city, and having so fixed and established the same, to put up stones or landmarks, to be provided for that purpose by the person or persons requiring

No. 6, s. 10, Feb. 14, '63.
City commissioner to fix lines of streets, &c.
Boundaries of lots.
Landmarks.

the same, to be done at any place or spot so established by him, and to make return, in writing, of such establishment, with the proper description thereof, under his hand and seal, to the register, who shall immediately record the same in a book to be provided for that purpose, and shall file and keep the original record or paper, so returned as aforesaid, in his office.

Return to register.

Ibid, s. 11.

Lines of streets in laying foundations of houses.

79. No owner or owners of any lot in the city shall dig or lay the foundation of any house in front of any street, lane or alley, or erect any wall or fence fronting thereon, before he, she or they shall have applied to the city commissioner to make out the true line of such street, lane or alley, unless the corners of the square upon which such improvements is to be made have been duly established, and said commissioner, so applied to, is hereby authorized and required to see that such foundation, building, house or wall does not and shall not encroach upon the highway, and said commissioner shall have a right to employ, if he deems it necessary, on every such occasion, the city surveyor, at the cost of such owner or owners. Every person so neglecting to apply, as aforesaid, shall forfeit and pay five dollars, and a like sum for each and every day such directions are not complied with.[1]

Duty of city commissioner.

City surveyor.

Penalty.

Ibid, s. 13.

Appeal to mayor from determination of city commissioner.

80. If any person or persons shall think him, her or themselves aggrieved by the determination of the said commissioner, in fixing the lines of any street, lane or alley, or the boundary of any lot, or in fixing the grade of streets, lanes and alleys, in such case every such person or persons may, within five days next after such determination, appeal from the same to the mayor, who shall thereupon issue a warrant summoning five disinterested persons of known ability and discretion, whose compensation shall be two dollars per day each, (the determination of whom, or a majority of whom, shall be final,) to settle all matters of dispute within ten days thereafter, and return their award, in writing, to the register, to be

Commission to disinterested persons.

Compensation.

Return of award to register.

[1] For party walls and partition fences, see Art. 7, p. 81, *ante*.

by him recorded; and before the persons appointed under such warrant shall proceed to the execution of their duties, they shall make oath or affirmation, that they will impartially examine the proceedings of the said commissioner from which an appeal is prayed, and confirm or alter the same as in their opinion is just, without favor or partiality; and the said persons shall receive from the said commissioner all documents and information which influenced and directed him in said determination, from which the appeal is made. Oath.

81. When any person or persons shall appeal from the determination of the city commissioner, it shall not be lawful for the mayor to grant the said appeal and issue the warrant herein mentioned, unless the person or persons so appealing shall enter into an obligation to the mayor and city council of Baltimore, and file the same with the register, binding him, her or themselves to pay to the mayor and c ty council of Baltimore all the expenses which may be incurred in the said appeal, should the same be not sustained. Ibid, s. 14. Duty of mayor. Bond for expenses.

82. The city commissioner, with the approbation of the mayor, shall fix and ascertain the said expenses, which shall be paid to the register, and by him to the person or persons employed to decide the appeal. Ibid, s. 15. How expenses to be ascertained.

83. The city commissioner shall have full power and authority to enter upon the lots of ground or possessions of any person or persons, or bodies corporate, through which the common sewers now or may hereafter run, to regulate or repair the same.[1] Ibid, s. 16. Power to enter lots or possessions. Sewers.

84. The city commissioner is hereby directed, whenever any of the bridges within the city stand in need of repairs, to mend and repair the same as he, with the approbation of the mayor, may think fit. Ibid. s. 17. Bridges.

85. The city commissioner is hereby directed to keep in good order and condition the fence, trees and grass in and Ibid, s. 18. Trees and grass at Mt. Vernon place.

[1] See further under Art. Sewers, *ante*.

around the squares at Mount Vernon place, and the sum of one hundred and fifty dollars, or so much thereof as may be necessary, shall be annually appropriated for that object.

Ibid, s. 19. Injuring or destroying abutment, mound, &c.

86. If any person or persons shall cut, break, dig down, injure or destroy any abutment, bank, mound or other public work erected or constructed by or under the orders of the city commissioner, every person so offending shall forfeit and pay a sum not exceeding two hundred dollars, and moreover, shall be liable to pay the expenses of repairing the injury.

Penalty.

Ibid, s. 21. Placing flag and stepping stones

87. The city commissioner is authorized to place flag and stepping stones whenever and wherever the convenience and necessity of the public may require the same, upon proper application being made to him.

Ibid, s. 20. Dangerous wall or building to be taken down. Notice.

88. If any wall or building shall, from any cause whatever, be in a situation to be dangerous to persons or property, the city commissioner shall immediately give notice in writing to the owner or owners of such wall or building, or to his, her or their agent, if said owner or agent can be found, to cause the same to be taken down; and if the same shall not be taken down in twelve hours after such notice given, the city commissioner 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.

Expenses.

Ibid, s. 23. To correct wrong numbers of houses.

89. It shall be the further duty of the city commissioner, when any error or irregularity exists in the numbering of houses, or where 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 fact is brought to his notice; provided that the expense of each number-plate required to be furnished, as aforesaid,

Proviso.

shall not exceed the sum of twenty-five cents, and shall be similar in style to those now in use, 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.[1]

Price of numbers.

No. 83, Nov. 7, '68.

Repairing and cleaning private wharves, docks, streets, &c.

90. The city commissioner is hereby authorized, upon the application of the owners of a majority of the front feet on any private wharf, dock, street, lane or alley, to cause the same to be thoroughly repaired and cleaned, and to assess and collect from the owners of the property a tax sufficient to defray the expense of the same in the manner now prescribed by law.

No. 8, s. 1, Feb. 29, '68.

City commissioner to have city buildings constructed and repaired.

Exception.

91. The city commissioner, with the approbation of the mayor, 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 city commissioner, and should any building require repairing, it shall be his duty, with the approval of the mayor, to have the same done in such a manner as he may deem best for the interest of the city.

Ibid, s. 3.

Register to pay.

92. The register is hereby authorized and directed to pay upon the order of the city commissioner, approved by the mayor, for any work done by virtue of the preceding section.

No. 49, July 2, '60.

Record of proposals of public work to be kept.

93. When the city commissioner shall advertise for proposals to construct new buildings, or repair any old buildings, or other city property, he is hereby directed to have entered in a book kept expressly for that purpose, all proposals received, the amount of each bid or offer made, together with the name of the bondsman in each case offered as security

1. This ordinance re-enacts, with amendments, No. 12 R. O., and supersedes No. 3, Feb. 28, '61, which created a board of city commissioners and port wardens.

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.

No. 5, Feb. 3, '65
Spouting and Gutters.

94. The city commissioner 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 from the city commissioner, the person or persons so offending shall forfeit and pay a penalty of ten dollars, to be recovered as other fines and forfeitures are recoverable.

Notice.

Penalty.

No. 9, s. 1, Mar. 18, '62.

The owner or owners of all permanent and stationary awnings over sidewalks, not extending over the curb stone, are hereby required to have gutter and down spouts placed to them, to carry the water to the gutter of the streets.

Gutter and down spouts to awnings.

Ibid, s. 2.

95. In default of any person or persons having such awnings (as described in the preceding section) in use, or those who may hereafter erect such awnings, failing to comply with the above provision, on reasonable notice from the city commissioner, said person or persons shall forfeit and pay a fine of one dollar for each day he, she or they may refuse or neglect, after said notice, to have such gutters and down spouts placed as herein described; the fine or fines to be collectable as other fines and forfeitures are collected.

Notice.

Penalty.

Fine.

JONES' FALLS.

No. 70, s. 1, May 18, '64.
City commissioner to notify the owners to wall up property.

96. The city commissioner is hereby authorized and directed to notify the owner or owners of property binding upon Jones' falls, within the limits of said city, to have the same walled upon the line of said Jones' falls, with a good and sufficient stone wall, to such height as said commissioner may

direct, and to have the same backed up or filled with earth, so as to secure such property from inundation by water.

Ibid, s. 2. To repair or rebuild wall.

97. The city commissioner is hereby authorized and directed, whenever he shall deem it necessary, to notify the owner or owners of property binding upon Jones' falls, within the limits of said city, where such property upon the line of said falls shall be walled up wholly or in part, to rebuild or repair in a good and sufficient manner any such stone wall.

Ibid, s. 3. Refusal or neglect.

98. If any person or persons, or body politic, shall refuse or neglect to have any such wall built, rebuilt or repaired, as above provided for, within two months after receiving notice from said commissioner, as set forth in the two preceding sections, it shall then be the duty of said commissioner, and he is hereby authorized and directed to cause such wall to be built, rebuilt or repaired as specified in said notice, and the cost thereof shall be a lien upon the property so walled up, repaired or rebuilt as aforesaid, to be recovered in due course of law from the owner or owners or body politic, so refusing to build, rebuild or repair after notice as aforesaid.[1]

Duty of city commissioner.

Cost, a lien.

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[1] Ordinance No. 13, Feb. 8, 1826, enacted, that Jones' falls be improved agreeably to the lines established by the commissioners of the city and wardens of the port, acting as a board for that purpose, under an ordinance passed July 23, 1818, and that the several lines are hereby confirmed. That for the purpose of giving free passage to the waters of Jones' falls, and in conformity with an act of assembly, passed December session, 1817, vesting in the mayor and city council of Baltimore, the right to the bed over which the said falls flows, the city commissioner and warden of the port are hereby authorized and required to notify, in writing, any person or bodies corporate, who have encroached on the bed of Jones' falls, as located in the year 1811, to have such obstructions removed. That if any person or persons, or body corporate, who have so encroached as aforesaid, shall not remove or cause to be removed such obstructions, within the space of six months after they shall have been notified as directed, they shall be severally subject to a fine of fifty dollars, and a further sum of twenty dollars for every month thereafter that they may neglect to remove such obstruction. That the city commissioner and warden of the port are hereby directed to remove any piles or other obstructions which may have been placed in Jones' falls by any of the city authorities. That the city commissioner is hereby authorized and directed, with the approbation of the mayor, to notify the owners of the property binding on Jones' falls, to have the same walled agreeably to the lines mentioned above, with a good and sufficient stone wall, to such

No. 6, s. 22, Feb. 14, '63. Overflow of falls. Duty of city commissioner. Register to pay.

99. Whenever there is a prospect of an extraordinary rise in the waters of Jones' falls, so as to threaten an overflow upon the adjacent property, it shall be the duty of the city commissioner, upon receiving information to that effect from any of the residents or property holders in that vicinity, to take prompt and active measures, and employ a sufficient force to prevent the obstruction or damming up of the said waters, and to draw on the register, with the approbation of the mayor, for the amount of any expenses that may be incurred in any such services.

LAMPS.

No. 8, s. 2, Feb. 29, '68; No. 6, s. 21, Feb. 14, '63. Lamps and pillars.

100. The city commissioner, with the approbation of the mayor, shall make all contracts for the construction, erection or removal of all street lamps and lamp pillars.

Ibid, s. 3. Register to pay.

101. The register of the city is hereby authorized and directed to pay upon the order of the city commissioner, approved by the mayor, for any work done by virtue of the preceding section.

No. 66, May 13, '64. The name of streets on lamps.

102. The city commissioner is hereby authorized and directed to have the names of the streets painted on frosted glass, set in a tin frame, and placed inside of all the lamps at the corners of streets throughout the city.

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height as in their judgment the public good may require, and to have the same backed up or filled with earth, so as to secure the adjacent property from danger of being inundated with water, and every person or body corporate, who shall refuse or neglect to have the same done within six months after receiving notice from the said board of commissioners, shall forfeit and pay twenty dollars for every week thereafter, until the same shall be completed. That the authority aforesaid, shall cause any of the public property binding on said falls to be walled up and filled in so as to correspond with the private improvements by them directed to be made, taking especial care to ascertain that such property belongs to the public before they improve the same. That it shall and may be lawful for the city commissioner to cause private property to be secured by a stone wall, when in his opinion an equivalent in ground is given for the same, subject, however, to the approbation of the mayor. As to liability of owners to wall up under 1821, c. 252, see *Lester* v. *Mayor*, &c., 29 Md. *Mayor*, &c. v. *Lefferman*, 4 Gill, 425.

103. Hereafter, when a new lamp shall be erected on the corner of any streets, the city commissioner shall have the names of the streets placed inside the lamp, in accordance with the above section; the cost of the same to be taken out of the annual appropriation for pillars and lamps. Ibid, s. 3. New lamps, names of streets on.

104. If any person or persons shall injure or destroy any lamp post, pillar or lamp, or any other public property of any kind, he or they shall forfeit and pay a sum not exceeding ten nor less than five dollars, and also pay the expense of renewing or repairing the same. No. 84, Sept. 18, '60. Destroying lamp posts, lamps, &c., city property. Penalty.

105. It shall and may be lawful for any person to erect a lamp or lamps opposite his or her house, with such lettering and device as such person may think proper, in a line with those erected by the city, near the curb stones; provided, said lamps shall not be less in size than those erected by the city, and shall be erected in the same manner and of the same materials as those now used by the corporation for burning gas; and provided, also, that the glass of said lamps shall not be colored or darkened more than is necessary to place therein the lettering or device aforesaid; and any person erecting a lamp, except in conformity to the provisions herein contained, shall be subject to a fine not exceeding two dollars, and a further sum of two dollars for every day the same shall be permitted to remain. No. 33, s. 34, R. O. Private lamps regulated. Provisos. Penalty.

SUPERINTENDENTS OF LAMPS AND LAMPLIGHTERS.

106. There shall be appointed annually, prior to the first of March, by the mayor, four superintendents of lamps, one of whom shall be assigned for each district by the mayor, who shall superintend the lighting and cleaning of the city lamps, and keeping the same in repair; and a room shall be provided at each station-house, where they shall attend daily from 1 P. M. to 3 P. M., in order to furnish their subordinates with oil and other requisites, and receive their reports as to the condition of the lamps; and said superintendents shall have charge of and be responsible for such oil and other requisites No. 21, s. 1, Sept. 18, '61; No. 18, Mar. 24, '66; No. 4, Feb. 16, '66; No. 66, May 30, '66; No. 80, '66; No. 1, Dec. 17, '62; Res. No. 121, Ap'l 13, '69; Res. No. 208, July 9, '69. Appointment by mayor. Duties.

Mayor to appoint lamplighters.

as may be used in said districts; and the mayor shall annually, prior to the first of March, appoint seventy-three lamplighters, who shall be assigned by the superintendents to their respective beats, and they shall light, extinguish, attend to and clean the city lamps at least twice a lighting, and it shall be the duty of the comptroller to prepare and have printed on cards, by the twentieth of each month, the hours when the city lamps shall be lighted and extinguished for the ensuing month, one of which cards shall be furnished to each captain, lieutenant and sergeant of police, and to the superintendents of lamps, and it shall be the duty of said superintendents to instruct the lamp-lighters as to the hours when they shall light and extinguish the lamps; the captains, lieutenants and sergeants of police shall report to the mayor all failures to light and extinguish the lamps at the proper time in their respective beats, and in all cases where the lamps shall be broken, and not promptly repaired, the mayor shall have power to suspend or remove for neglect of duty, as in his judgment the case may require.

Res. No. 212, Oct. 22, '64. Light on Sunday night.

107. The comptroller is authorized to have the street or public lamps lighted each and every Sunday night for such number of hours as he may deem necessary to light the city.

No. 13, Mar. 10, '64; No. 61, May 26, '66. Lamplighters' salary.

108. The salary of the superintendents of lamps shall be eight dollars per week, and the compensation of the lamplighters shall be seven dollars per week.

No. 8, s.10, R.O. Oil.

109. The register shall advertise for proposals for furnishing oil when required for the use of the city, as directed by section 26 of Article I.

GAS.

No. 70, s.1, May 3, '59. Contract between city and Gas Co.

110. If the president and directors of the Gas Light Company of Baltimore shall certify to the city register, under the seal and signed by the president or other proper officer of said company, that the said company will and doth hereby obligate itself, and agree to lay gas mains of sufficient size,

and supply the same with gas, in such avenues, streets, lanes, alleys and places as may from time to time be directed by any ordinance or resolution of the mayor and city council of Baltimore, from year to year, at the sole cost of said Gas Light Company, to the extent of not exceeding ten thousand dollars in each year, estimated at the actual cost of the same; that then the said mayor and city council of Baltimore shall and doth hereby pledge the faith of the city to the Gas Light Company, that upon the faithful performance of the conditions above recited on the part of said Gas Light Company, should the mayor and city council of Baltimore at any time authorize any person or persons or body corporate to use any of the thoroughfares of the city, where the said Gas Light Company shall have laid gas pipes for the purpose of supplying the city with gas, the said mayor and city council of Baltimore, before such grant or authority shall be given, will assume the cost without interest, and pay to the said Gas Light Company for all such mains as may have been laid by said company pursuant to this ordinance, (or any other ordinance or resolution of the mayor and city council of Baltimore to be passed;) provided, however, that in the case of such repayment on the part of the city to the said Gas Light Company, an allowance of eighteen dollars shall be made to the city by the said Gas Light Company for each attachment (other than for public use) which may have been made up to the time of such repayment, and thereafter the said Gas Light Company shall pay to the mayor and city council of Baltimore the said sum of eighteen dollars for each and every such attachment which may be made to such mains after such repayment, until the whole amount of such repayment shall be returned to the city treasury.

Pledge faith of city.

Proviso.

111. The said Gas Light Company of Baltimore shall furnish the two branches of the city council, or either of them, when so required, with such estimates as shall guide them in their legislation in relation to the laying of the gas mains.

Ibid s. 2.

To furnish city council estimates.

Ibid s. 3. To furnish plat and statement of number of feet of mains laid.

112. The said Gas Light 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 4. Refusal or neglect to file certificate.

113. Should the said Gas Light Company of Baltimore refuse or neglect to file said certificate with the city register within the time hereinbefore specified, or refuse to comply with any of the provisions of this ordinance, then this ordinance shall be considered as of no force or virtue.

Ibid, s. 5. Construction of ordinance.

114. Nothing contained in this ordinance shall be so construed as to prevent the repeal of it by the mayor and city council of Baltimore at any time; provided, however, that in case of such repeal, the mayor and city council of Baltimore shall pay to the Gas Light Company of Baltimore the actual cost of all mains which may have been laid by said company pursuant to ordinance; the said company to refund such payments to the mayor and city council of Baltimore in the manner as provided in section 110.

No. 79, s. 1, Oct. 20, '68; No. 13, Mar. 3, '68. Laying gas mains, &c.

Duty of Gas Co.

Record in city commissioner's office.

115. Before the Gas Light Company of Baltimore shall proceed to lay any gas main, service pipe or attachments in any street, square, lane or alley of the city of Baltimore, it shall be the duty of the said Gas Light Company to have recorded in the office of the city commissioner, in a book to be kept for that purpose, the name and portion of the street, square, lane or alley in which said main or service pipe or attachment is to be laid; and in case of service pipe or any other not considered main, the number of the house to which it is to be attached, together with the date of laying said main, service pipe or attachment.

Ibid, s. 2. Filling over mains, &c. how to be made.

116. Whenever any gas mains, service pipes or attachments shall have been laid in any of the streets, squares, lanes or alleys of the city of Baltimore, it shall be the duty of the said Gas Light Company to have the filling over the said

mains, service pipes or attachments filled in layers of six inches each, each layer to be well rammed and settled, and paved upon a bed of good sand not less than one foot deep with a uniform surface, or to the grade of the street; and should the said filling or paving so done by the said Gas Light Company require refilling, repaving or repairing, the said Gas Light Company shall do the same at its own cost; and it shall be the duty of the city commissioner, when repairing the streets, squares, lanes and alleys of the city, to repair all ruts, holes or depressions occasioned by the said gas mains, pipes or attachments, and collect the cost of the same from the said Gas Light Company, and the said Gas Light Company shall be liable to a fine of twenty dollars for each and every violation of this and the preceding section, to be recovered as other fines and forfeitures are recovered.[1]

Duty of city commissioner.

[1] Ordinance, June 17, 1816, enacted the following: whereas, it is represented to the mayor and city council of Baltimore, by Rembrandt Peale, on behalf of himself and others, who have associated and formed a company, by the name and title of the Gas Light Company of Baltimore, that they are willing to contract to light the streets, squares, lanes and alleys of this city, in a more effectual manner, and with more safety, convenience and beauty, by means of carbureted hydrogen gas, than they heretofore have been lighted by means of oil, without causing any increased expense to the city for lighting the same extent of streets or space; and the said company have prayed, that the mayor may be authorized to contract with them for that purpose; and also, that they may be authorized to lay pipes for the purpose of conveying the gas along and under the streets, squares, lanes and alleys of the city; and the city council being desirous of giving every reasonable assistance to promote the laudable views of the said company, and of having the city lighted in the most effectual manner which the means usually appropriated to that object will accomplish; therefore, it enacted:

1. That it shall and may be lawful for the Gas Light Company of Baltimore, aforesaid, and they are hereby authorized to proceed to lay or cause to be laid along and under the streets, squares, lanes and alleys of the city, paved or unpaved, such and so many pipes as may be necessary to convey the gas from their manufactory or manufactories, which they are hereby authorized to establish and carry on within the city, until such permission be revoked, to and along any street, square, lane or alley which they shall propose to light, and also to supply with light any house or other place, belonging to any individual or company, adjacent to any such street, square, lane or alley in or along which the said pipes shall be so laid, and the same from time to time to repair or remove; provided, always, that the said company shall not in any manner injure or displace any pipe or pipes laid or to be laid by the Baltimore Water Company, for the purpose

of conveying water into or through any part of the city or precincts; and provided, also, that the Gas Light Company of Baltimore, aforesaid, shall, immediately after laying, repairing or removing any pipe or pipes as aforesaid, in any street or part of a street, square, lane or alley, and always within two days after being thereto required by the city commissioner, cause to be filled up, repaired and repaved, at their own expense, every such street or part of a street, square, lane or alley, as the said company may find it necessary to dig, impair or unpave, for the purpose of altering, laying or removing any pipe or pipes as aforesaid; and if the said company shall omit or neglect to fill up, repair or repave any such street, square, lane or alley, or any part thereof, or shall omit or neglect to remove and take away any dirt or rubbish which may remain after the laying, altering or removing such pipe or pipes, or after filling up, repairing or repaving as aforesaid, for the space of forty-eight hours after the time which shall be limited by the city commissioner in his notice for that purpose, the said company shall, for every such omission or neglect, forfeit and pay to the use of the city, such sum not exceeding twenty dollars, as any justice of the peace for Baltimore county shall adjudge, on a warrant to be issued in the name of the mayor and city council of Baltimore, against the president or other known officer of the said company; and also the sum of five dollars to be recovered as aforesaid, for every day they shall neglect or refuse so to do, after the issuing of any warrant by a justice of the peace for the recovery of the said penalty of twenty dollars.

2. That the said company shall be subject to all the penalties prescribed by the provisions of the ordinance entitled an ordinance to encourage the introduction of water into the city of Baltimore, and of the several supplements thereto, so far as the same can, within the intent and meaning of this ordinance, be rendered applicable to the said company, and so far as they are not inconsistent with the provisions of this ordinance; and that the said company shall be particularly subjected to the provisions of the ordinance and supplements aforesaid, respecting the repairing and repaving the streets, lanes and alleys through which the gas may be conveyed; removing the rubbish remaining from the laying or repairing the necessary pipes, and the repavement by the company of such streets, lanes or alleys as may be insufficiently repaved, or prove defective within six months from the time of their being repaved; and that the said penalties contained in the provisions of the said ordinance and supplements, shall be recovered from the president or other known officer of the said company, before any justice of the peace, in the mode hereinbefore prescribed and directed.

3. That if any person shall impair, obstruct, displace or injure any pipe or any part of the machinery which shall be used or employed by the said company, in manufacturing, conducting or conveying the said gas, or in any way impede the circulation or cause the waste of the said gas, he or she shall, for every such offence, forfeit and pay such sum, not exceeding twenty dollars, as any justice of the peace shall adjudge, one-half to the use of the informer, and the other half to the use of the city; and such person shall also be liable to pay damages for the injury which the said company may sustain.

4. That the mayor is hereby authorized to contract with the said Rembrandt Peale and the other members of the Gas Light Company of Baltimore, or with the agent or officer of the said company duly authorized for that purpose, to light the whole of the streets, squares, lanes and alleys of this city, or from time to time, for the lighting of any one street, part of a street, square, lane or alley, as

he may deem advisable, on such terms and conditions as to the mayor shall appear reasonable; provided, that no such contract shall be made for a longer period than one year, and also that the actual cost or expense of lighting the city, in virtue of any such contract, shall not exceed the expense heretofore incurred for the same purpose, and the same proportion for lighting any street or streets, or any part of a street, unless the same shall be authorized by a future ordinance; and the mayor is hereby authorized to pledge the faith of the city, that any contract or contracts made by him with the said company, under the restriction aforesaid, shall be continued, extended or renewed, from year to year, as long as the said company shall continue to light the city with as much economy, safety, and as effectually, as the same can or could be lighted by means of oil, or by any other company which may be established, or by any other means, and no longer; provided, always, that the mayor and city council of Baltimore reserve to themselves the right of annulling any such contract, and also of annulling and withdrawing any or all of the privileges granted by this ordinance, if it shall at any time hereafter appear to the said mayor and city council that the manufacture of gas, or the use of it as a means to light the city, injures the health or endangers the property of the citizens in a greater degree than the use of oil for the same purpose.

5. That the Gas Light Company of Baltimore, aforesaid, may, and they are hereby authorized, with the approbation of the mayor, and the consent of the owners or occupiers of houses fronting on or adjacent to any street, square, lane or alley, to attach the lamps, pipes or other apparatus to be used or necessary for lighting any such street, square, lane or alley, to any part of any such house or houses, on such terms and conditions as may be agreed upon by and between the said company and the owner or occupier of such house or houses.

By the act of 1816, c. 251, s. 8, entitled an act to incorporate the Gas Light Company of Baltimore, it is provided that all and singular the rights, permissions, power and privileges granted to the company by the above ordinance, are thereby vested in and confirmed to the Gas Light Company of Baltimore, as incorporated by that act; and the said company thereby incorporated shall be authorized, entitled and bound to do and perform all acts, and subject to all restrictions and penalties authorized and permitted, required or imposed, by the said ordinance, as fully, to all intents and purposes, as if the said company had been incorporated before and at the time of passing the said ordinance. See 1860, c. 195.

1. Ord. No. 66, July 27, 1858, enacted: that the mayor and the presidents of the first and second branches of the city council, or either of them, are hereby authorized to contract with the Gas Light Company for fitting up and lighting as many of the public lamps as they may deem expedient on such squares, streets, lanes and alleys where the said company now have or may hereafter extend their pipes, upon such terms as may in their judgment be equitable and promotive of the public convenience; provided, however, that the cost of lighting such lamps shall, in no event, exceed the cost of lighting them with oil at the time of making such contract; and provided, also, that the said contract shall not be made for a longer period than one year.

2. That if at any time during the continuance of any contract or contracts as aforesaid, the mayor may have any reasonable cause of complaint against the

said Gas Light Company for any neglect in the faithful compliance with their contract, either as it regards the quantity of light, the quality of the gas, or any other reasonable cause, that then and in such case, after three days notice having been previously given, and the cause of complaint not being removed, the mayor may declare the contract or contracts to have terminated and to be at an end.

The People's Gas Light Company of Baltimore city was incorporated by 1860, c. 291, and the Equitable Gas Light Company of Baltimore city, by 1867, c. 132. As to obligation of Gas Company to supply gas to individuals, see *Gas Co.* v. *Colliday*, 25 Md. 1.

PERMITS FROM CITY COMMISSIONER.

No. 19, s. 1, May 1, '69; No. 6, Feb. 27, '60.

Permit to place steam boiler, steam engine, &c.

To erect frame shed, bay window, telegraph pole, &c.

Proviso.

117. The city commissioner, with the approbation of the mayor, 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, on his, her or their premises, or to erect any frame shed, bay window, telegraph[1] or other pole, sign, sign post, awning flap or other structures, the erection of which is prohibited by 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 applicant for said permission; provided the person or persons applying for the permits above enumerated shall comply with the following provisions:

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[1] No. 57, Sept. 22, '65, enacted: that the Insulated Lines Telegraph Company are authorized to erect their poles and wires through the following streets in the city of Baltimore, that is to say: from the Northern Boundary line of the city of Baltimore down the York or Greenmount avenue to Belvidere street, along Belvidere street to North street, along North street to Bath street, along Bath street to Holliday street, and along Holliday street to Baltimore street; also, from the corner of North and Bath streets along North to Pleasant street, along Pleasant street to North Charles street, along North Charles street to Saratoga street, along Saratoga street to North Liberty street, along North Liberty street to Baltimore street, thence along Baltimore street to Calvert street; also, from the corner of Baltimore and North Liberty streets to South Eutaw street, along Eutaw to German street, along German to Green, along Green to Conway, along Conway to Ridgely, and Ridgely street to the Long bridge; provided, however, that the mayor and city council of Baltimore be permitted to place their fire alarm and police telegraph wires upon the poles so erected by said Insulated Lines Telegraph Company free of expense; and provided also, that the said telegraph company shall send all messages for the mayor and city council of Baltimors, its agents and servants in its behalf, free of charge.

No. 19, s. 2, May 1, '69.

Application to city commissioner.

Statement.

118. Before any such permits shall be granted, a written application shall be made to the city commissioner by the person or persons desiring the same, with a statement of the privilege desired, if a frame shed, its desired location and dimensions, with the name of the street, lane or alley, and the number of the house, if it is intended to be attached to a building in the rear thereof; if either of the other privileges embraced in the preceding section, a full description of the premises in or on which it is to be placed, used or attached. And the city commissioner shall require the person or persons making said application to have inserted at his own expense in one or two of the daily papers to be by him designated, for at least three days, a notice of said application in which he shall name a day and hour on which he will be in his office to hear and determine whether said applications should or should not be granted; and should it appear from personal examination by the city commissioner or his assistant, that the same should be granted, and there being no serious objection filed against granting the privilege asked for, the same may be granted; and said person or persons shall pay to the city commissioner 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 preceding section, excepting bay windows, the sum of two dollars each.

Notice of application.

To consider application.

When to be granted.

Cost of permits.

Ibid, s. 3; No. 35, July 9, '69.

Bay windows.

How to be constructed.

119. 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 pavement, unless it is proposed to construct the same with the base beginning at the pavement, nor shall it project more than four feet beyond the building line; and if the same shall be erected at the side of a house, it shall not be less than ten feet from the building line of the street on which the house shall front.

No. 19, s. 4, May 1, '69.
Cost of permit to erect bay window.

120. For each permit to erect a bay window, where the same shall commence at the pavement, the applicant shall pay the sum of ten dollars for each square foot of surface occupied by said window; and for each permit to construct a bay window whose base shall be eight feet above the pavement, as hereinbefore provided, the applicant shall pay the sum of five dollars for each story.

Ibid, s. 5; No. 78, June 9, '64.
Permits may be revoked.

121. All permits granted for the erection of frame sheds, telegraph and other poles, sign posts, signs, awning flaps, devices, figures and other structures, except bay windows, may be revoked, and the same shall be removed, after sixty days' notice by the mayor; and all permits granted for steam boilers and steam engines and boilers, may be revoked, and the same shall be removed, after six months' notice from the mayor; and any one 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 after the first.

Removal on notice from mayor

Fine.

No. 19, s. 6, May 1, '69.
Penalty for erecting frame shed larger than permitted.

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

No. 33, s. 21, R. O.
Earth, &c., not to be removed from unpaved streets without permission.

123. No carter or other person shall dig, remove or carry away from or out of any of the unpaved streets, lanes or alleys of the city, any dirt, earth, sand or gravel, without a special license first had and obtained from the city commissioner, with the approbation of the mayor, for that purpose, specifying the time when and place from which the same is to be removed, under the penalty of one dollar for every load of dirt, earth, sand or gravel so removed.

124. No person or persons shall make, dig or throw up any drain, trench, gully, gutter or canal, in, through, along or across any of the streets, lanes or alleys of the city, without a special license or permission in writing for that purpose first had and obtained from the city commissioner, specifying the time when and place where the same is to be done, and such conditions as he may think necessary, under a penalty of ten dollars if the same shall not be done in strict accordance with said permission, and the street, lane or alley kept in good repair as therein required, and the like sum weekly until the same be removed, or permission received and complied with as above required.

Ibid, s. 22, Ditches, &c., not to be dug in lanes or alleys without permission.

Penalty.

VAULTS, AREAS AND CELLARS.

125. The city commissioner shall have power, with the approbation of the mayor, to give permission to construct any vault or area in the streets; provided, in his opinion no injury will be done to the public thereby.

No. 14, s. 1, R.O. City commissioner to give permission to construct. Proviso.

126. No person shall cause or procure any vault or area to be constructed or made in any of the streets, lanes or alleys of the city, without the written permission of the city commissioner, approved by the mayor, under the penalty of twenty dollars, and ten dollars for each and every day the same shall remain.

Ibid, s. 2. Penalty for constructing without written permission.

127. Every application for permission to erect such vault or area, shall be in writing, signed by the person making the same, and shall state the number of square feet of ground which is required for the same, and the intended width and length of the same.

Ibid, s. 3. Application, how to be made

128. After obtaining permission to construct or make such vault or area, and previous to the commencement thereof, the person so applying shall forthwith pay to the register of the city the sum of twenty cents for each square foot of ground mentioned as required for such vault or area, under a penalty of twenty dollars.

Ibid, s. 4. Payment to register.

Ibid, s. 5. Penalty when the number of feet exceeds the number paid for

129. If it shall appear, by such certificate or otherwise, that such vault or area occupies a greater number of square feet than shall have been paid for as aforesaid, the owner of such vault or area, and the master builder by whom or under whose direction such vault or area shall be constructed, shall, in addition to the penalty imposed by section 126, severally and respectively forfeit and pay the sum of fifty cents for each square foot of gronud occupied by said vault or area, over and above the number of square feet paid for as aforesaid.

Ibid, s. 6. To be completed within three weeks.

130. All vaults and areas shall be completed and the ground closed over them within three weeks after they are commenced, under the penalty of five dollars for every day thereafter during which the same shall remain unclosed, to be recovered from the owner or builder of the same, severally and respectively, unless the mayor extends the time for the completion of the same, which he is hereby authorized to do in cases where he may deem the same necessary and expedient.

Proviso.

Ibid, s. 7. Extent of areas.

131. No area in the front of any building in the city shall extend more than one-fifteenth part of the width of any street, nor in any case more than four feet and four inches, measuring from the inner wall of such area to the building; nor shall the railing of such area be placed more than six inches from the inside of the coping on the wall of such area, and no vault shall extend to a greater distance than two-fifths of the width of any street, measuring from the building line, under the penalty of twenty dollars, to be recovered from the owner and builder thereof, severally and respectively.

Ibid, s. 8. Areas to be enclosed.

132. Every area shall be enclosed with a railing, the gates of which shall be so constructed as to open inwardly, under the penalty of twenty dollars for each offence, to be recovered from the owner and builder thereof, severally and respectively; provided, however, that nothing in this ordinance shall be so construed as to prevent any person or persons from

Proviso.

using the footways for ingress and egress by means of an area into the basement of any building.[1]

Ibid, s. 9. What constitutes vaults and areas.

133. Every description of opening below the surface of the street, in front of any shop, store, house or other building, whether covered or open, except cellar doorways and cellar steps, shall be considered and held to be a vault or area within the meaning of this ordinance.

Ibid, s. 10. Entrances to cellars to be covered when not in use.

134. All entrances to the cellars or basements of any store or dwelling house, in any street, lane or alley of the city, which have steps descending below the level of the sidewalk, shall be covered when not in actual use, with good and sufficient iron or wooden doors or grates, on or above the level of the sidewalk, or be surrounded with good and sufficient wood or iron railing, of a height sufficient to prevent danger to the lives or limbs of persons who may be passing along said street, lane or alley, and any person violating this section shall pay a fine of ten dollars for each and every offence, and a further fine of five dollars for every ten days such entrance shall remain without such door railing, after the first conviction.

Penalty.

Ibid, s. 11. Cellar doors, how to be constructed.

135. All cellar doors shall have the cheeks thereof regulated, so that they shall not have a greater descent of grade than one inch and a half for each foot in length, extending from the house or building; and if any person shall refuse or neglect to conform thereto, he shall forfeit and pay the sum of five dollars, and one dollar for every day thereafter, until the aforesaid regulation is conformed to.

Ibid, s. 12. Duty of police.

136. It shall be the duty of the police officers to give information to the mayor and city commissioner, whenever any vault or area is being constructed in any of the streets of the city, within their respective districts.

[1] An area, intended to furnish light to the basement of a house, opened in the pavement of a public street in a populous city, is a public nuisance of a dangerous character, which the owner of the house when it was erected, and all subsequent purchasers, are bound to render secure. *Irwin* v. *Sprigg*, 6 Gill, 200.

Ibid, s. 13.
Vaults, how to be covered.
Penalty.

137. All such vaults shall be constructed of stone or brick, agreeably to the directions of the city commissioner, under the penalty of twenty dollars for each and every offence, and the further penalty of twenty dollars during each and every month, until the same shall be constructed according to the provisions of this ordinance, to be paid by the person or persons who may cause or direct the same to be constructed.

Ibid, s. 14.
Apertures of vaults, how to be covered.

138. The iron grates which shall be used to cover the apertures of vaults which are placed on the footways in the several streets, lanes or alleys of the city, shall be sunk not less than three inches below the surface of said foot pavements, and the same shall be securely covered by a wooden or stone frame, which shall be level with the surface of the said foot pavement, so as not to create any obstruction to walking or other proper use of said footways; and the said grates, so covered with wood or stone as aforesaid, shall be so constructed as to be fastened inwardly, and the wooden or stone frame or covering securely fastened to the iron grates; so that the same may not come apart; and if any owner or occupier of property shall hereafter cause or permit any grate to be placed upon the foot pavement attached to his or her premises not constructed conformably to the provisions of this section, he, she or they shall incur a penalty of ten dollars, and one dollar for each day it shall remain after notice given by the city commissioner to alter, change or remove the same; provided, that the provisions of this section shall only apply to openings to vaults which project or are placed more than three feet from the building line of any street.

Penalty.
Proviso.

Ibid, s. 15.
Precautions while constructing
Lighted lamp.

139. The owner or occupant of any house or lot before which any vault or opening for cellar doors, areas or steps is being constructed, shall fence off the pavement on the right and left of the improvement, and during the whole of every night whilst such vault or opening is uncovered or unenclosed, cause a lighted lamp or lantern to be placed at some convenient spot, so as to cast its light upon such vault or opening, under the penalty of five dollars for each and every night, or

part of a night, during which such lamp or lantern shall be neglected to be placed, kept or lighted as aforesaid.

Ibid, s. 16. Removal of covering.

140. No person shall remove or cause to be removed any grate or covering to the opening or aperture of any vault in any of the streets of the city, without enclosing such aperture during the time such grate or covering is removed, with a strong box or curb, at least twelve inches high, and firmly securing the same, under the penalty of ten dollars for each and every offence. Penalty.

REGULATIONS.

No. 33, s. 2, R.O. Penalty for firing guns, &c.

141. If any person shall fire or discharge any gun, pistol or firearms within the city, unless it be on some occasion of military parade, and then by order of some officer having the command, every such person, for every such offence, shall forfeit and pay a sum not exceeding five dollars; and if any gun, pistol or firearms shall be discharged from on board any vessel within the harbor of Baltimore, the captain of the vessel, as well as the offender, shall be liable to the said penalty. Exception.

Ibid s. 4. Coal and troughs in streets prohibited.

142. Every person who shall put or place any coals, or any trough for watering or feeding horses, cattle or other animals, or cause the same to be done in any public square, place, street, lane or alley of the city, and shall not remove the same on the same day before sunset, shall forfeit and pay the sum of one dollar for each offence, and the further sum of one dollar for each and every subsequent day the same shall remain therein. Penalty.

Ibid, s. 5. Firewood in streets, &c., regulated.

143. Firewood may remain in any public square, street, lane or alley in the city for the space of forty-eight hours next ensuing the putting or placing the same therein, and no longer, and every person who shall put and place any firewood in any such public square, place, street, lane or alley, or cause the same to be done, or suffer the same to remain therein for a longer space of time than is above specified in

this section, shall forfeit and pay the sum of one dollar for such offence, and a further sum of one dollar for each and every day the same shall remain therein beyond said space of forty-eight hours.

Ibid, s. 6. Barrels, hogsheads, &c.

144. If any person or persons shall place or cause to be placed in any street, lane or alley in the city any barrel, hogshead, box, crate or other package, and shall suffer the same to remain for a longer time than twelve hours, or in any instance after nine o'clock in the evening, every person so offending shall forfeit and pay one dollar, and the further sum of one dollar for every day the same shall be suffered to remain, and in no case shall any person be permitted to use more space than one-half of the foot pavement by placing the above named articles thereupon, under a penalty of one dollar for each and every offence.

Not more than one half of footway to be used.

Ibid, s. 7. When streets may be obstructed.

145. No person or persons shall in any manner obstruct any of the streets, lanes or alleys of the city, or the gutters thereof, except in the immediate act of moving or removing some article in the way of their trade or business, or for the use of their families; provided, that flour, spirituous liquors, or such other articles, as are to be inspected or gauged under ordinances or statutes, may be placed on the footways; such articles, however, to be arranged so as not to obstruct the passage through the streets or over the footways from the stone pavement to any house, store, cellar or backyard, or from any house, store, cellar or backyard to the stone pavement, without the consent of the owner or occupier; every person so offending shall forfeit and pay the sum of one dollar.

Goods liable to inspection regulated.

Ibid, s. 8. Goods, &c., not to project more than three feet.

146. If any person shall set or place any goods, wares or merchandise, vegetables or fruit by way of exposing them to sale in any street, lane or alley in the city, to project more than three feet from the wall of his or her house or store, every such person shall pay a fine of one dollar; and no person shall wheel any wheelbarrow, or draw or push a hand cart along any of the footways of the streets, lanes or alleys of the city, or place one on the same, under the penalty of one

Wheelbarrows, &c., on footways prohibited.

dollar; provided, that nothing in this clause shall be construed to prevent any person from using a wheelbarrow or hand cart in removing any articles of merchandise, or materials necessary for building or family use, across the said footways. Proviso.

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

148. It shall and may be lawful for any person employed in building or repairing any house, to enclose the front part thereof; provided, the said enclosure does not project more than four and a half feet on the footway, or remain more than sixty days after the house is covered, without the permission of the city commissioner; and any person offending against the provisions of this section, shall be subject to a penalty of five dollars for each and every day the said enclosure shall remain. Ibid, s. 10. May enclose the fronts of houses. Proviso.

149. All buildings hereafter erected, fronting on any public street, lane or alley in the city, which shall be covered with tile, slate, zinc, tin or copper, shall have inserted in the raft- Ibid s. 33. Slate and other roofs regulated.

Repairs to same regulated.

ers, near the eaves, iron pins, not more than twelve inches apart, and not less than four inches in length, above the top of the roof, with scantling or iron bars on the pins, so that the water may be permitted to run under, and the falling of

Snow and ice.

snow or ice prevented; and all houses hereafter to be repaired, and which shall be covered with tile, slate, zinc, tin or copper,

Penalty.

shall be finished in the same manner; every person or persons offending against the provisions of this section shall forfeit and pay a fine of twenty dollars, and the further sum of ten dollars for each and every month thereafter, until the provisions hereof shall be complied with.

Ibid, s. 35.

Lumber, &c., in streets regulated.

150. If any person or persons shall place or cause to be placed within the streets, lanes or alleys of the city, any dirt, lumber or other obstructions to the free egress or ingress through such street, lane or alley, and shall permit the same

Notice from city commissioner or police.

to remain more than twenty-four hours after being notified by the city commissioner or any of the police officers to remove

Penalty.

the same, he, she or they shall be subject to a fine of five dollars for each day it shall so remain; and the city commissioner is hereby authorized and empowered to remove or cause to be removed, all manner of obstructions to the passage through the streets, lanes or alleys, which he shall find remaining in the same an unnecessary length of time; and all expenses incurred shall be chargeable to the person or persons who shall violate the provisions of this section.

Ibid, s 15.

Horses not to be shod, or fires made in streets

151. If any person shall cause any horse, mare or gelding to stand in any of the streets, lanes or alleys within the limits of direct taxation, whilst he is shoeing or preparing to shoe such horse, mare or gelding, or shall make any fire in any

Penalty.

street, lane or alley, every such person shall forfeit and pay a

Proviso.

sum not exceeding five dollars; provided, that it shall and

When fires allowed.

may be lawful for any person to kindle and use a fire made of charcoal or coke on any street, lane or alley in the city, for the purpose of preparing any article to be used in the construction of any house, cellar or pavement, if not more than one-fourth of the width of the street, lane or alley in front of

the property to be improved, be occupied, and for no longer time than six days at any one place; and provided further, that the consent of the persons occupying all the property on the square on which the improvement is to be made, be first filed in the office of the city commissioner.

152. No person or persons shall set up any pent-house, shed or wooden awning, in any of the streets, lanes or alleys of the city, or shall set up or fix an awning of canvass, linen or other cloth, the railing of which shall not be at least six feet six inches in height from the lowest side thereof to the foot pavement, under a penalty of five dollars, and one dollar per day until the same is removed. Ibid. s. 16. Pent houses and awnings regulated. Penalty.

153. It shall be unlawful for any person or persons to set up or suspend over or into any street, lane or alley of the city, any sign post, sign, figure or device whatever, more than two feet from the side of said street, lane or alley, and one foot additional for each story above the first from which the same may be set up or suspended; provided that in no case shall any such sign post, sign, figure or device be permitted to extend over more than one-third of the side walk on the first story; and every person offending in either case shall forfeit and pay the sum of five dollars, and one dollar for each and every day the same shall remain thereafter; provided, however, that any innkeeper, by permission of the city commissioner, with the approbation of the mayor, may be exempted from the penalties of this ordinance, so far as respects signs and sign posts. No. 13, Mar. 12, '63. Sign-post, figure, or device. Provisos. Fine. Innkeeper exempt.

154. If any person or persons shall wilfully break, pull down, hurt or destroy any tree or trees, or enclosure around the same, which are now or may hereafter be planted near the curb or gutter of any of the streets, lanes or alleys of the city, or in any other public grounds within the city, such person or persons so offending, shall forfeit and pay five dollars for every such offence; provided always, that nothing herein contained shall be so construed as to prevent the city com- No. 13, s. 19, R. O. Penalty for injuring trees in streets, &c. Proviso.

Removal of trees by city commissioner.

missioner from removing any tree or trees, or part thereof, which he may deem so situated as to obstruct the carriage or footways, or injure any of the public pumps, or any proprietor of a lot or lots from cutting down any tree or trees near the gutter in front of his or her lot or lots.

No. 33, s. 11, R. O. Water from gutters not to be thrown on streets.

155. No person or persons shall cast water contained in the gutter or gutters of any street, avenue, lane or alley, upon the bed or paved portion of such street, avenue, lane or alley, by means of a scoop, shovel, watering pot, or by any other means or contrivance whatsoever; and any person or persons who shall violate the provisions of this section, shall forfeit and pay the sum of five dollars for each and every offence; provided, that no portion of this section shall, in any way impair the privileges accorded to builders in sections 147 and 148.

Ibid, s. 31. Snow to be removed from footways.

156. It shall be the duty of each and every person, incorporated society or public institution using or occupying in any manner, or for any purpose whatsoever, any house, store, shop, stable or tenement of any kind, and of persons having charge of churches and public buildings of every description, and of owners of unoccupied houses and unimproved lots, situate on any paved street, lane or alley in the city, within three hours after the fall of any snow, (except the snow shall have ceased to fall between the hours of three o'clock in the afternoon and six in the morning, in which case it shall be removed before eleven o'clock in the morning,) to remove and clear away, or cause to be removed and cleared away, the same from the foot pavements fronting the respective houses, stores, shops, stables, churches, buildings or lots, so used, occupied or owned by them, or under their charge, in such manner as not to obstruct the passage of the water in the gutters, under a penalty of two dollars for every neglect, beside the expense of cleaning the same away, under the direction of the police officers in the mode provided in the succeeding section. And it shall further be the duty of said persons and agents to keep the gutter or gutters leading and

Exception.

Penalty.

the pavements or sidewalks situate in front, rear or sides of such tenements above enumerated free from ice and every obstruction of whatever nature, and every such owner, tenant or person having in charge, who shall fail to remove any such obstruction by ice or any other cause, for three hours after notification duly served on him, her or them by any police officer of the district, shall forfeit and pay two dollars for such failure, and one dollar additional for each and every day the obstruction may continue, such fines and forfeitures to be recoverable as is usual in similar cases.[1]

Ice. Notice. Penalty.

[1] See sec. 121, p. 320, *ante*. *Nuisances:* Held before the establishment of the board of police that the effect of the provision requiring the city "to prevent and remove nuisances," (sec. 1, p. 276, *ante*,) is to make the city, like individuals and private corporations at common law, responsible for causing or not removing nuisances, to any person who has received special damages therefrom; and that the passage of ordinances providing for the removal of snow and ice from the streets, so as to prevent their accumulation from being a nuisance, was not a discharge of the obligation imposed by the charter; that the city was bound to make vigorous efforts to enforce such ordinances, in order to bring itself within the saving of having used reasonable care and diligence, and where a party sustained an inconvenience or injury, experienced in common with all citizens, then the source of complaint is a common nuisance, and the remedy must be by indictment. An accumulation of ice on the footway of a city, is a common nuisance. *Mayor, &c.*, v. *Marriott*, 9 Md. 160. *Owings* v. *Jones*, *ibid*, 108.

Dobbin, A. J., in *Alvord* v. *Mayor, &c.*, and *Richardson* v. *Mayor, &c.*, May term, 1868, held: that as the mayor and city council have no police force, and cannot by law, as now existing, have a police force under their control, by whom the duty of keeping the streets clear of ice can be performed or enforced, and in the absence of this necessary condition to constitute legal liability, they are not responsible for accidents resulting from ice and snow not being removed from streets. The police commissioners are required "to prevent and remove nuisances in all the streets and highways," "and to enforce all laws and ordinances of the mayor and city council not inconsistent with the provisions of the police act, (see p. 554, *ante*,) or of any law of the State, and which may be properly enforceable by a police force."

The corporation is liable in damages to the owner of a horse for an injury done to the horse, occasioned by the digging of a trench or hole in a street of the city into which the horse fell, the driver having used reasonable and proper care and diligence to avoid the danger. The fact that a trench was dug by the owner of a house fronting on the street, for the purpose of conducting water to his premises from the water pipes of the city, and that by the city ordinances on the subject, the necessary excavation, filling up and paving was to be done by such owner, do not relieve the corporation from the obligation, under its charter, to keep the public highways free from nuisances and in a condition to be safely traveled. *Mayor, &c.*, v. *Pendleton*, 15 Md., 12. *County Commissioners* v. *Duckett*, 20 Md., 468. See note, p. 499, *ante*.

Ibid s. 32. Duty of police with respect to snow, ice, &c.

157. It shall be the duty of the police officers to cause the snow and ice to be removed by the persons employed for the purpose of cleaning the streets, from the footways of the bridges within the city, and from the flag stones placed at the several intersections of the streets, as also to remove the ice and other obstructions to the free passage of the water, at the intersections of the several streets of the city, and to cause the snow and ice to be removed from the foot pavements fronting the houses, stores, stables, churches, public buildings, lots or tenements of such persons as shall neglect or refuse to remove the same, at the expense of the city in the first instance, to be afterwards recovered from the person or persons so neglecting or refusing.

Ibid, s. 18. Bulky articles not to be thrown from windows.

Sliding boards &c., regulated.

Penalty.

Proviso.

158. It shall not be lawful for any person to throw any bale or bulky article from the second or higher story door or window, into the street, or to use or cause to be used, in or upon any street, lane or alley, wharf or place of public resort, any sliding board or skid for the purpose of receiving or delivering merchandise, without having the same well secured and fastened with at least two iron hooks, so as to prevent the same from slipping; and every person who shall offend in manner aforesaid, shall forfeit and pay, for every such offence, the sum of twenty dollars; provided, that this section shall not be construed to extend to the removing any merchandise or other article, in case of danger by fire or other casualty.

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

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

Ibid, s. 2. Penalty.

Proviso.

160. Any person or persons who shall violate any of the provisions of the aforegoing section, shall forfeit and pay for each and every offence, the sum of two dollars; provided, that nothing contained in the aforegoing section shall be construed to permit any person or persons to post bills of any

kind, unless the same is done with the consent of the owners or occupants of property where said bills are proposed to be posted. All bills posted under the provisions of this and the preceding section, shall bear the date of the month in which said bill is posted.

Consent of owners of property.

Bills to be dated.

161. It shall not be lawful for any person to play at bandy or ball, to fly a kite or throw a stone or any other missile in that part of the city comprehended within the limits of direct taxation, or any street, lane or alley opened for public use within the limits of the city, under a penalty of one dollar for each offence.

No. 33, s. 51, R. O.

Penalty for playing bandy, flying kites, &c.

HORSES, SWINE, &C.

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

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

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

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

Ibid, s. 2.

What carts, &c excepted.

Provisos.

south side of Camden street for the sale of articles, shall be so placed that the articles sold therefrom can be purchased from the pavement or sidewalk.

Ibid, s. 3. Conditions.

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

Ibid, s. 4. Carts, &c., not used to sell from to be removed.

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

Penalty.

No. 33, s. 38, R. O. Driving cattle, &c. in streets regulated.

166. It shall not be lawful for any person or persons to drive any cattle, sheep, or hogs eastwardly or westwardly in Baltimore street, between Fremont and Eden streets, under a penalty of twenty dollars for each and every offence.

No. 64, Oct. 8, '61. Swine not permitted to lie down in streets.

167. It shall not be lawful for any person or persons owning or driving any hogs through, or in any of the streets, lanes or alleys of this city, wilfully to permit the same to stop or lie down therein; and any person or persons, or their agent or agents, who shall violate this section, shall be subject to a fine of five dollars for each offence, to be recovered as other fines are recoverable.

Penalty.

168. It shall not be lawful for swine to go at large at any time within the city; and the mayor is hereby authorized to employ persons to take up all swine found going at large in any of the streets, lanes or alleys of the city; and he is also authorized to enter into such arrangements with the trustees of the poor for the city of Baltimore, as will induce them to receive all swine taken up according to the provisions hereof.

No. 63, s. 1, R.O. Swine not permitted to go at large.

When taken up, how disposed of.

169. The sum of five hundred dollars is annually placed at the disposal of the mayor, to be expended as he shall deem most advisable in executing this ordinance relative to swine, to be paid out of any money in the treasury not otherwise appropriated.

Ibid, s. 2. Appropriation.

170. It shall and may be lawful for all persons to kill or cause to be killed, or to seize and take and dispose of to his or their own use and benefit, any goat or goats running at large in any public street, lane or alley, or found within any of the enclosures of the springs or public squares of the city.

No. 62, s. 1, R.O. Goats going at large may be killed or seized.

171. The sum of fifty dollars is hereby annually placed at the disposal of the mayor, to carry out the provisions of the preceding section, to be taken out of any unappropriated money in the treasury.

Ibid, s. 3. Appropriation.

172. Should any goat be found running at large, as aforesaid, the owner or owners thereof shall forfeit and pay the sum of two dollars.

Ibid, s. 2. Penalty on owners.

Decisions as to Streets.

The two systems for opening and condemning, and for grading and paving streets in the city of Baltimore, are entirely different—they are provided for by different laws and ordinances, executed by different officers, and governed by different rules and regulations. *Mayor, &c.*, v. *Porter*, 18 Md., 284.

The acts of assembly referred to in the following decisions, are incorporated in "Statutes" of this article, as contained in Art. 4, P. L. L.:

1. OPENING, &c., STREETS.—The act of 1830, c. 226, s. 1, (sec. 1, &c., p. 819, *ante*,) invests the mayor and city council with the power and authority to provide for laying out, opening, extending, widening, straightening or closing up, in whole or in part, any street, &c., which in their opinion the public welfare or convenience may require; to provide for ascertaining and levying damages and benefits, for granting appeals, for jury trials, &c.; provided, nevertheless, that before they should proceed to execute any of the powers thereby vested in them, at least sixty days notice should be given of any application which may be made for the passage of any ordinance, by advertisement in at least two or more daily papers in the city of Baltimore. The notice given in two or more daily papers, was: "that application will be made to the mayor and city council to widen Belair avenue or North Gay street, as laid down on Poppleton's plat, from Point lane to the North avenue." Held: 1. That the powers granted by above act, are such as are essential to the existence and expansion of a great municipality, and are confided to a local legislature selected by its citizens, for the government of its concerns. 2. That it would be fatal to the objects for which these powers are delegated by the general assembly of the State, to require all notices of applications for ordinances to carry into effect these powers, to specify, with technical precision, the objects for which the application would be made; such particulars would embarrass all the subsequent proceedings dependent on the notices, and render the rights acquired under them so precarious as to destroy all confidence in the local legislation of the city. 3. That the notice, in this case, was a sufficient compliance with the proviso of the act above cited, in accordance with which ordinance No. 61, of 1851, was passed. 4. That the authority conferred, by this ordinance, on the commissioners, "to widen and condemn North Gay street or Belair avenue to the width as it is laid down on Poppleton's map," was a legitimate exercise of the power conferred by the act. *Mayor, &c.* v. *Bouldin et al.*, 23 Md., 328.

Ordinance No. 15, 1851, sec. 1, (sec. 27, p. 840, *ante*,) made the authority for paving in any unpaved street, &c., to depend upon the application, in writing, of those representing a majority of the feet of ground binding and fronting on said street, &c., after giving seven days notice, &c., making no distinction between condemned and uncondemned streets. Section 36, (sec. 63, p. 851, *ante*,) extended these regulations to all streets, lanes and alleys opened, but not formally condemned, as well as to such as have been regularly condemned by law or ordinance; provided the proprietors of all the lots binding on such street, &c., shall

assent thereto. Held: 1. That "condemned as public," must be considered synonymous with appropriated to the public, or streets belonging to the public—the means being put for the end. 2. That the right, by appropriation, had already been acquired by the city in so much of Belair avenue as was a public highway, prior to the ordinance directing it to be widened and condemned. 3. To constitute a "proprietor" or "owner," within the purview of said sections 27 and 63, *ante*,) does not require an absolute legal and equitable estate in fee; yet there must be such an interest as would protect the property to be affected from encumbrances which would prejudice the tenant in reversion and secure to the city a full right of way. 4. Those who have such a stake in the subject-matter as that they could not encumber it without injury to themselves, would be qualified to make the application under the said secs. 1 and 36; if their title is an equitable title, in fee, depending on contract to be consummated, such an interest would be enough to protect the interest of the vendor from prejudice, by wanton applications. 5. One holding an equitable estate in fee, accompanied by possession, or an interest equivalent to that of a tenant for ninety-nine years, renewable forever, an executor or administrator of such, a mortgagee or mortgagor in possession, or a vendee under a deed of trust, who subsequently acquires a title in fee, would be an "owner" or "proprietor," as contemplated by said sections. The signature of the treasurer of a church corporation to an application under the said sections, ratified and confirmed by their payment of the tax levied on them, was as binding as if in pursuance of the most formal and legal prior authority. The signature to such an application by attorney, in pursuance of an express verbal request by a *trustee and cestuis que trust*, was sufficient; such authority would have been sufficient in law to bind their interests in a contract for sale made by their attorney,—and the authority of the agent need not be in writing to bind the principal in such cases. *Mayor, &c.* v. *Bouldin et. al.*, 23 Md. 328.

An ordinance of the mayor and city council, May 5, 1864, to open a street in continuation of Holliday street, by its 2nd section, required the judges of the appeal tax court (see note p. 840, *ante*) in the condemnation and opening of the proposed street, to proceed in accordance with the provisions of ordinance No. 15 of R. O. 1858. Section 7 of said ordinance (sec. 7, p. 831, *ante*) provided: that in every case where it shall be necessary to effect the object proposed, that a part only of a house and lot, or of a lot, shall be taken and used or destroyed, and the owner thereof shall claim to be compensated for the whole, the commissioners shall ascertain the full value thereof as if the whole lot and improvements were necessary to be taken and used for such proposed object. It then provided for the payment to the owners of the whole of such valuation, and for the sale of the residue of the lot not necessary to be taken and used for the street; and the amount which is derived from such sale is appropriated to the payment of the expense of the improvement, thereby diminishing to that extent the cost of the work assessed upon the parties benefited. On a bill filed for an injunction to prevent the opening of the street—held: that this provision of the ordinance is not obnoxious to the objection that it authorizes the taking of the property of a citizen, when it is not required for public use. *Mayor, &c.* v. *Clunet*, 23 Md. 449.

The mayor and city council having provided by ordinance for the opening of a street to pass through the lands of A. and B., B. filed a bill for and obtained an injunction to prevent the opening of said street; one of the conditions of his injunction bond being for the payment of "all damages occasioned by the granting of the injunction." The injunction was finally dissolved and the appeal dismissed by the Court of Appeals. A. afterwards sued B. upon the injunction bond claiming damages to the amount of an alleged depreciation in the value of his land between the issuing of the injunction and its final dissolution, on the ground that the injunction prevented the sale of his land for building lots at the price that could have been obtained for them at the time of the granting of the injunction, if the street had been then opened. Held: 1. That the claim of A. could only be sustained on the ground that the injunction operated to infringe or deprive him of some vested legal right, which the bond was intended to protect. 2. That under the ordinance for opening said street, passed by authority of 1838, c. 266, neither the public nor any private citizen could acquire any privilege or right to its use until the actual opening and surrender of the street to the public. 3. Limiting the liability of the appellant B. to such damages as might have arisen from the suspension or invasion of vested legal rights by the injunction, the appellee A. sustained no injury for which he could claim redress by an action on said bond. *Steuart* v. *State*, 20 Md., 97.

The modes in which the power of opening, widening and closing streets is exerted, vary according to circumstances. Sometimes it is initiated by summoning a jury upon warrant, in the nature of an inquest, *ad quod damnum;* at others, boards of assessors are appointed to appraise dues and benefits, with the right of appeal to a court of record and of review, by a jury; yet all are subject to the constitutional inhibition, "that the legislature shall enact no law authorizing private property to be taken for public use, without just compensation, (as agreed upon between the parties or awarded by a jury,) being first paid or tendered to the party entitled to such compensation."

The constitutionality of the act of 1838, c. 226, and the ordinance of the city of 1850, No. 17, entitled an ordinance for exercising certain powers vested in this corporation in relation to streets, (secs. 1-26, pp. 828-840, *ante*,) has been repeatedly affirmed by the Court of Appeals. The commissioners for opening and widening streets having a special public duty and jurisdiction assigned them, to be executed in a prescribed form, their proceedings are of a legal character, and must be regarded as subject to all the incidents of proceedings in the nature of a writ of inquisition *ad quod damnum*, being but means to the same end. Regarded in their legal character, the proceedings of the commissioners, under the ordinance, are a substitute for the inquisition of a jury, to ascertain the actual cost of any projected improvement, and have no further effect. *State, ex rel., Mc Clellan* v. *Graves et al.*, 19 Md., 351.

A square, designated as such on Poppleton's plat of the city of Baltimore, and marked by two boundary stones, but which has never been used by the public for any purpose, but constantly held by the owners of the land, and never purchased by the city authorities, or conveyed to them, is not a square for public

purposes, contemplated by the act of 1817, c. 148, s. 13. The owner has the same right to improve the land in this square as any other portion of his property in the city limits, and the city authorities have the right to open a street through it in the same manner as through any other property; there is no necessity for them to close this square, because it never was in legal contemplation a pub lic square. Notice, that application will be made to the city authorities "to open and condemn Baltimore street from the east side of Fulton street to the city limits," describes with sufficient accuracy the street designed to be opened, and is not defective in this particular. *Steuart* v. *Mayor, &c.*, 7 Md. 500.

The owner of a lot lying on the bed of a street in the city of Baltimore, which is taken for public use, is entitled to compensation precisely as if no such street was opened over it, and to ascertain this the value of neighboring and contiguous lots may be looked to, but they do not furnish an unerring standard by which to measure the value of the lot condemned. A law providing for the opening of a street or road, and imposing all the costs on those who are the more immediately benefited, instead of the community at large, is constitutional. Where a party sells property within the limits of a city, and in the deed bounds it by streets designated as such in the deed, or on a map made by the city, or the owner, it is a dedication of the street for public use, and a subsequent purchaser from the same vendor of the lot upon the bed of such street, can claim only nominal damages for its condemnation upon the opening of the street, because he only acquired the naked fee, subject to an easement, or right of way in the public. *Moale* v. *Mayor, &c.*, 5 Md. 314.

Where the legislature conferred certain powers upon the corporate authorities of the city of Baltimore, in relation to the opening and widening of streets in said city, it is not essential to the validity of an ordinance of said corporation executing the powers thus conferred, that it should state or indicate the act of assembly, in execution of which it was passed. If no power be stated as its basis, the ordinance will be regarded as emanating from that which would have warranted its passage; and if two such powers exist, it may be imputed to either, in conformity to which its provisions show it to have been adapted. The power to determine whether or not the public welfare and convenience require the widening of any particular street, is by the act of 1838, c. 226, vested exclusively in the mayor and city council, and whether their judgment be right or wrong, is no subject for revision or correction in a court of equity. Where notice to all persons interested in the opening or widening of any street, has been duly given by publication, as required by law, ignorance thereof, in any party, can afford him no ground for relief, either in equity, or by appeal to Baltimore City Court. The law imputes notice, and will not admit testimony to disprove it. *M. P. Church* v. *Mayor, &c.*, 6 Gill, 391.

Proprietors of land in a city frequently divide it, so as to establish streets at points where there are none under the authority of the corporation, and lots conveyed by deeds which bound them on such streets, give the purchasers, by virtue of an implied covenant, an easement or right of way over the streets,

which right is unaffected by the circumstance that at the time of sale the streets were unopened. *White* v. *Flannigan*, 1 Md. 540.

Where a deed describes city lots as bounding on certain streets, the grantor and his heirs are estopped from denying that there are such streets to the extent of the lots bounded by them. Such a description is not merely a description, but an implied covenant that there are such streets. The several acts of assembly authorizing the municipal authorities of Baltimore city to lay out, open, extend, widen, &c., any street, &c., considered in *White* v. *Flannigan*, 1 Md. 519.

The ordinance of the city of Baltimore, March 9, 1841, in relation to the opening, &c., of streets, directing the commissioners, after ascertaining the amount of damages and expenses to be incurred in any one case, to assess the same on all the ground and improvements within the city, the owners of which would, in the judgment of the commissioners, be benefited by accomplishing the object authorized in the ordinance; apportioning them in just proportion according to the value of the benefit, which, in the estimation of the commissioners, would accrue to each owner of any right or interest claimed in any such ground or improvements, does not subject the individuals embraced by it to an unequal and partial tax, for the prosecution of an improvement in which the whole community is interested. No burden is imposed by such an ordinance on the person on whom it operates. It is a mere requisition that the owners of property, the value of which is enhanced by the opening of the street, shall pay for the improvement in a ratio to the benefit derived from it. *Alexander & Wilson* v. *Mayor*, &c., 5 Gill, 383.

2. PAVING, GRADING, &c., STREETS.—The system of grading and paving streets established by the ordinances of the city of Baltimore, is authorized by law, and no constitutional objection exists to the power conferred on the owners of a majority of front feet, of imposing a tax for such purposes, on the property of the other owners, against their wills. But the intention of the law is, that the application by the majority of owners shall be made in good faith, and any arrangement or combination among parties applying, whereby a few, who wish the work to be done, procure the signatures of others, by paying them therefor, either directly or indirectly, is a fraud upon the law and contrary to public policy. *Howard* v. *First Independent Church*, 18 Md. 451.

The powers and duties of the city commissioner are specially defined and limited by ordinances having the force and character of public laws, ignorance of which can be presumed in favor of no one dealing with him as to matters thus conditionally within his official discretion. Under the ordinances of the city the city commissioner may make contracts for grading and paving, and assess taxes therefor in two classes of cases, viz: 1. Upon application of the proprietors of a majority of front feet where the street has been condemned: and 2, upon the like application of all the proprietors of ground fronting on the street where it has not been formally condemned. Without such application he is entirely destitute of the official character and power in and by which alone he

can take any lawful proceedings, or make any valid contract for such work, and the power of the mayor to approve of his determination to grade and pave, and of his contracts for the same, is limited to the same classes of cases and controlled by the same conditions.

A contract made by the city commissioner for grading and paving, upon the application of the owners of a majority of feet fronting on a street not formally condemned, is invalid and not obligatory on the city, and the contractor can maintain no action against the city on the contract, nor for damages for violating or disregarding its provisions. *Mayor, &c.* v. *Eschbach,* 18 Md. 276.

The lessee for ninety-nine years or for ninety-nine years renewable forever, and not the owner of the fee, is the owner or proprietor to assent to the paving of unpaved streets in the city of Baltimore, under the acts of 1797, c. 54, s. 2, and 1817, c. 148, s. 18, and 1833, c. 40, s. 3, (see sec. 12, p. 824, *ante.*) *Holland* v. *Mayor, &c.,* 11 Md. 186.

Unless the owners of a majority of the feet fronting on the street to be paved, assent in writing to the paving, the proceedings of the city authorities, directing the paving to be done, are null and void, and a court of equity has, upon application of the non-assenting owners, jurisdiction to prevent, by injunction, the sale of their property to pay for such paving. *Bouldin* v. *Mayor, &c.,* 15 Md., 18. *Mayor &c.,* v. *Porter,* 18 Md., 284. *Lester* v. *Mayor, &c.,* 29 Md.

The ordinances of the city of Baltimore in relation to the paving of streets, confer on property owners not only the right to have their own lots improved by paving in front of them, but also the power to compel others to submit to and pay for such supposed improvements. The paving tax is due immediately after the commissioner makes out the list of persons assessed, and its payment may be enforced before any portion of the paving is commenced. The assent, in writing, of the proprietors of a majority of feet fronting on the street to be paved, must appear to have been given before the paving is ordered, and the want of such assent may be shown as a defence to an action to enforce collection of the tax. The certificate of the commissioner, stating that a requisite number of proprietors had assented to the paving, is not conclusive on the question of assent; it has but a *prima facie* effect as the warrant or authority to have the paving done, and those who act under it do so at their peril. The authority of the commissioner as to the paving of streets, is specified and limited, both as to its scope and effect, and when made the foundation of an action, it must appear to have been exercised according to law. *Henderson* v. *Mayor, &c.,* 8 Md., 352.

The taxes for paving streets in the city of Baltimore, are imposed on the property, and not on the owner, and though a personal action for them may be maintained by the city against the owner, this does not affect the specific liability of the property. *Eschbach* v. *Pitts,* 6 Md., 71.

The charter of a cemetery company within the limits of the city of Baltimore provided that a certain number of acres "shall be forever appropriated and set apart as a cemetery, which so long as used as such, shall not be liable to any tax or public imposition whatever." Held, that a paving tax for paving a street in front of this property is not embraced in this exemption. The intent of the legislature was to exempt the property from all taxes or impositions imposed for the purpose of revenue, but not to relieve it from such charges as are inseparably incident to its location in regard to other property. *Mayor, &c.* v. *Greenmount Cemetery*, 7 Md., 517.

Under the act of 1797, ch. 54, s. 2, the power given to the mayor and city council of Baltimore, to tax any particular part, or district of the city, for paving the streets, lanes or alleys therein, or for sinking wells, or erecting pumps, which may appear for the benefit of such particular part or district, is not confined to any particular description of benefit, such as the ordinary benefit and advantage of paved streets. The preservation of the health of such particular part of the city, is a benefit within the meaning and scope of the act. The legality of laying such tax does not depend upon whether the paving does, or does not in fact benefit the particular district paved; but upon the object, the motive of the corporation in causing the paving to be done. In an ordinance providing for such paving, and the imposition of such a special tax, it is not necessary that it should be expressly stated to be for the benefit of the particular district; if nothing appeared to the contrary, such an exercise of the special taxing power will be taken to have been in pursuance of the authority given by the charter. But where an ordinance provides for the paving of a street, &c. in a particular district, and the imposition of a special tax for that purpose, on such district, which paving appears from the ordinance to be for the general benefit of the city, and not for the benefit of the particular district, it is not in pursuance of the authority conferred by the charter, and is void. *Mayor, &c.* v. *Hughes' Adm'r*, 1 G. & J., 480. *Mayor, &c.* v. *Moore*, 6 H. & J., 375.

ARTICLE XLIV.

SURVEYOR.

CONSTITUTION.

How elected: duties and compensation: vacancy.

STATUTES.

1. Duties and compensation.
2. Plat of the city, evidence.

ORDINANCES.

1. Oath of office.
2. Duties required of him by city commissioner.
3. Duties required of him by commissioners for opening streets.
4. Duties prescribed by mayor and council.
5. Fees.
6. To keep a record: to preserve field-notes, plats, &c.: to report semi-annually to mayor.
7. Records subject to examination by mayor, members of council, city commissioner and other city officers: charge for examination.
8. Bond: return of plats, &c., to comptroller.

CONSTITUTION.

Art. 7, sec. 2. Election.

The qualified voters of the city of Baltimore shall, on the Tuesday next after the first Monday in the month of November, in the year eighteen hundred and sixty-seven, and on the same day in every second year thereafter, elect a Surveyor for the city of Baltimore, whose term of office shall commence on the first Monday of January next ensuing his election, and whose duties and compensation shall be the same as are now, or may hereafter be prescribed by law. And any vacancy in the office of Surveyor shall be filled by the mayor and city council of Baltimore, for the residue of the term.

Duties and compensation. Vacancy.

STATUTES.

P. L. L., art. 4, sec. 865; 1852, c. 59. Duties, &c.

1. The mayor and city council shall prescribe by ordinance the duties and compensation of the surveyor.

P. G. L., art. 37, sec. 48; 1852, c. 42. Plat of the city, evidence.

2. A copy of the plat of the city of Baltimore, from the record thereof in the mayor's office, or from the record thereof in the office of the clerk of the Superior Court of Baltimore city, duly certified under seal by the keeper of such records, respectively, shall be evidence.[1]

ORDINANCES.

No. 16, s. 1, R. O. Oath of office.

1. Before entering upon the duties prescribed by this ordinance, the city surveyor shall take the following oath or affirmation, before the mayor of the city of Baltimore: I, ———, do solemnly swear or affirm, that I will to the utmost of my ability, faithfully and impartially discharge the duties of city surveyor, whenever called thereto, agreeably to the ordinance to regulate the office of city surveyor.

Ibid, s. 2. Duties required of him by city commissioner.

2. Whenever the city commissioner shall, in pursuance of the several duties required to be performed by him, under the provisions of the several ordinances of the city of Baltimore, contained in article, Streets and City Commissioner, or of any other ordinance which may hereafter be passed, regulating the duties of said city commissioner, require the services of a surveyor, it shall be the duty of the said city surveyor, to do and perform all such acts appertaining to the business of a surveyor, as may be reasonably required of him by the said city commissioner, for which services he shall be entitled to and shall receive compensation as fixed in the table of rates contained in the fifth section hereof, and which compensation shall be collected in the manner now provided for in

[1] For the City Boundaries, see note p. 38, *ante*. The limits, as laid down by the commissioners under the act of 1816, c. 209, contain about 10,000 acres surface in land and water, and form a parallelogram of about three and a half miles from north to south, and four and a half miles from east to west.

the several ordinances hereinbefore referred to, or which may hereafter be passed by the mayor and city council of Baltimore.

Ibid, s. 3. Duties required of him by commissioners for opening streets.

3. Whenever the commissioners for opening streets shall proceed to perform the several duties imposed upon them by virtue of the ordinance of the mayor and city council of Baltimore, contained in article, Streets and City Commissioner, which may require the services of a surveyor, it shall be their duty and they are hereby required to notify the city surveyor thereof, and it shall be the duty of the city surveyor to do and perform all such work as may be required by the said commissioners for opening streets in the discharge of their several duties, and for which work or services so performed, he shall be entitled to and shall receive compensation agreeably to the rates established by the table hereinbefore mentioned, to be assessed and collected in the manner prescribed by ordinance of the mayor and city council of Baltimore.

Ibid., s. 4. Duties prescribed by mayor and council.

4. It shall be the duty of the city surveyor to do and perform all other acts and things appertaining to the business of a surveyor, which may be required by virtue of any ordinance or resolution of the mayor and city council of Baltimore requiring the services of a surveyor, which are now in force or which may be hereafter passed, upon due notice to be given to him whenever said services are needed, and shall receive compensation agreeably to the rates in the table herein mentioned, or which may hereafter be specially prescribed by the mayor and city council of Baltimore.

No. 69, May 30, '66. Fees.

5. The compensation for the duties performed by the city surveyor, under this ordinance, shall be, as fixed by the following table, viz:

For surveying and establishing the lines of a lot, eight dollars.

For a plat of the same, three dollars.

For surveying and establishing from two to ten adjoining lots, each five dollars.

For a plat of the same, each two dollars.

For giving the line of a street in front of a building, five dollars.

For establishing the grade of any street, one square, five dollars.

For all over one square, each three dollars.

For profile of same, for each square, five dollars.

For paving plat, each square, five dollars.

For condemnation and benefit plats furnished to the commissioners for opening streets, the rates shall be as follows:

For a distance as shewn on the benefit plat not exceeding two squares, for every front foot ordered, five cents.

For a distance, as above, more than two and not exceeding four squares, for every front foot ordered, three cents.

For a distance, as above, exceeding four squares, for every front foot ordered, two cents.

For the damage plat he shall be allowed for his own services ten dollars per day while engaged on it, and also an additional allowance of two dollars and fifty cents per day for each assistant; provided, that in opening any street designated on Poppleton's plat, there shall not be allowed (on said damage plat) more than one day to each square to the surveyor and his assistants, unless the bed of the street to be opened be obstructed by improvements.

Proviso.

No. 16, s.6, R.O. To keep a record—to preserve field notes plats, &c.

6. There shall be provided for the use of the city surveyor, an office, which shall be known and designated as the "city surveyor's office;" and the said city surveyor shall be required to have all memoranda, field notes and plats taken and made by virtue of this ordinance, and such as may be committed to his charge by any of the city officers, carefully filed and preserved in said office for the use of the city, whose property they are hereby declared to be; and it shall be the duty of the city surveyor to report semi-annually, (in January and

To report semi-annually to mayor.

July,) to the mayor, what field notes (so termed) and plats are in his possession belonging to the city. He shall also keep in his office a record of all the establishments made by him under the direction of the city commissioner.

Ibid, s. 7. Records subject to examination by mayor, members of council, city commissioner, and other city officers.

7. All records, memoranda, plats and field notes herein mentioned, shall at all times be subject to the inspection and examination of the mayor, the members of the city council, the city commissioner, the commissioners for opening streets, counsellor, comptroller, and the register of the city; but every other person, after the expiration of twelve months from the time of the deposit of any record, memoranda, or plats in said office, for such inspection, shall pay to the city surveyor, for the use of the city, the sum of twelve and a half cents; and it shall be the duty of the city surveyor to furnish a copy of any record in his office to any person requiring the same, on the payment of ten cents for every one hundred words embraced in such copy.

Charge for examination.

Ibid, s. 8. Bond.

8. Before entering upon the duties of his office, the city surveyor shall give bond, with securities, in the sum of five thousand dollars, conditioned for the faithful performance of his duty as city surveyor, and for the return to the comptroller of the city, of all memoranda, field notes, plats, copies of plats and records, made by him as city surveyor, or which may have been committed to his charge, whenever the same shall be required of him by the mayor of the city or by the comptroller, under the orders of the mayor.[1]

Return of plats, &c., to comptroller.

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[1] P. G. L., Art. 38, sec. 29, provides for the fees (a per diem of $4,) of county or city surveyor, for executing warrants and orders from Land office or courts of law and equity. P. G. L., Art. 29, secs. 10–12, provide for the appointment of a surveyor to lay out and locate lands where the official surveyor is interested, &c. P. G. L., Art. 92, provides for the execution of warrants, &c., from Land office, or from courts, by county or city surveyor.

ARTICLE XLV.

TAXES.

STATUTES.

1. Corporation authorized to levy a direct tax.
2. Powers to levy taxes defined: provisos: exemptions.
3. Limits of direct taxation: proviso.
4. Collection of taxes: enforcement of payment.
5. Sale of property: notice of sale.
6. Purchase-money: credit.
7. Redemption: deed to purchaser: payment to register.
8. Owner of property: investment in city stock, &c.
9. Redemption within a year and a day.
10. Within what time taxes to be collected, &c.
11. Penalty for collecting taxes after four years.

BRIDGES AND HIGHWAYS.

12. Tax by mayor and city council.
13. How to be applied.

APPEAL TAX COURT.

14. Appointment of: duties.
15. Vacancies: compensation.
16. Oath.
17. Register to make list of holders of city stocks for Appeal Tax Court.
18. Duty of Appeal Tax Court.
19. Duty of Register.
20. Failure of register to make list: duty of Appeal Tax Court: certificate.
21. Compensation.

COLLECTOR OF STATE TAXES.

22. Appointment: compensation: per centage.
23. Collector's bond.
24. To make deposits to credit of treasurer: in what bank: removal and suit.
25. Examination of books.
26. Bond to be recorded.
27. When governor to appoint collector: bond.
28. Levy for commissioners: per centage.

ORDINANCES.

APPEAL TAX COURT AND ASSESSORS.

1. Appeal Tax Court: duties and powers: bond: clerk: duties: assessor: salaries.
2. Assessors' duties: powers.
3. Office hours of Appeal Tax Court: notice that they will receive lists of property of those liable to taxation: time allowed for appealing: alterations, additions or deductions: when the valuation shall be final.

4. Statement to comptroller of amount of assessable property: report to mayor.
5. To fix value of stock of corporations.
6. Clerk of Superior Court to furnish list of alienations of property and mortgages entered on record: releases of mortgages.
7. When to abate assessments: when to close accounts: when to charge to suspended accounts.
8. Empowered to refund taxes paid in error: proviso: to keep lists of all claims: copy of same: to investigate cases of alleged payment of taxes.
9. To correct errors: to make transfers.
10. Persons removing into city required to give account of personal property liable to be assessed: penalties.
11. Appeal Tax Court to find out value of all property liable to taxation: proviso.
12. List of rates allowed to bailiffs.
13. Bailiffs to act as assessors: salary.
14. Judges of Appeal Tax Court constituted a board of arbitration: clerk: record.
15. Decisions not to conflict with existing laws, &c.
16. To investigate cases of dispute and report to mayor.
17. Cases in which decisions of board shall be final: bond.
18. Board empowered to investigate cases of grievance by any officer of city.
19. Mayor authorized to fill vacancies.
20. Faith of city pledged to exemption of city stock from taxation.

PERMITS TO ERECT BUILDINGS.

21. When permit required.
22. Appeal Tax Court to grant: record: penalty.
23. Refusing to show permit to officer: penalty.

COLLECTOR.

24. Appointment: bond: conditions: payment to register: statement under oath.
25. Term of office.
26. Removal from office: delivery of money, books, &c., to register: when register to act as collector.
27. Charges against collector: suspension: answering.
28. When mayor to convene council.
29. Books for ensuing year.
30. Accounts for collection: payments, insolvencies, abatements and transfers: accounts of tax payers.
31. Deposits in bank: when register to draw money.
32. Notice: publication: tax bills.
33. Taxes on real estate, personal chattels, &c.: discounts.
34. Enforcement of payment.
35. Discounts: when interest added.
36. When bills to be delivered: notice on bills: bailiffs: memorandum: notice to be published.
37. To draw on register for expenses, &c.: duty of register.
38. Distress, &c., for State taxes.
39. Jurors' orders, how received.
40. Advertisements: list of taxes in arrear: names of persons: notice.
41. Distraining: post office.
42. Surveyor's fees: proviso: fees and commissions.
43. Charge, pro rata.
44. Lots of ground: when to sell leasehold interest: proviso: when to sell fee simple: proviso: notice of lease.
45. Auction fees: credit of year and day: deed: balance of purchase money: investment in city stock: register to take charge of certificates.
46. Redemption within a year and a day: interest: refunding to purchaser.

47. Paving tax: enforcing payment.
48. Paving contractors: commissions.
49. Paving tax: plat: lien: how tax collected.
50. When collector to notify parties assessed for benefits: six months: enforcement of payment.
51. Opening streets: deeds: balance of purchase money to register.
52. City commissioner to issue warrant: paving, &c. footways: lien: list of persons assessed: bills: thirty days.
53. Lists of property sold for taxes: book in collector's office open to inspection.
54. Title to property: examination: city solicitor: certificate from city solicitor.
55. State taxes.
56. Salaries and officers.
57. Collector of State taxes.

LIMITS OF DIRECT TAXATION.

58. Extended.

STATUTES.

1864, c. 69. Corporation authorized to levy a direct taxes.

1. The mayor and city council of Baltimore are hereby authorized and empowered to levy upon the assessable property of the city, by direct tax, a sum not exceeding twelve hundred thousand dollars annually, with full power to provide by ordinance to collect the same, for the purpose of defraying the expenses of the corporation, over and exclusive of all expenses, charges and sums of money which they are or shall be required by law to collect for other purposes.[1]

1865, c. 119. Powers to levy tax defined.

2. The mayor and city council of Baltimore are hereby empowered to levy and collect taxes upon every description of property found within the corporate limits of said city, which they are now authorized by law to levy taxes upon for the purpose of defraying the expenses of the municipal government, whether the owners thereof reside within or without

Proviso.

the limits of said corporation; provided, that no stocks, bonds, mortgages, certificates or other evidences of indebtedness of any bank or other corporation situate within the limits of said city, which are owned or held by persons residing without such limits, shall be subject to taxation for the

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purpose above set forth; and provided further, that no authority is given by this act to impose taxes on any property

Exemptions.

which is now or may hereafter be exempted from taxation by

[1] See Stocks, &c., p. 713, *ante*.

any general or special act of the general assembly of Maryland, nor upon any property which may be stored or deposited in the city of Baltimore for temporary purposes.[1]

3. They may extend the limits of direct taxation within the said city from time to time as they shall deem it expedient so to do in any and every direction, and to any extent, within the limits of said city; provided, that they shall not extend such limits of direct taxation over any square or part of a square of ground embraced within the streets of said city, unless there shall be upon every full square at least six dwelling or store houses completed and fit for occupation, nor to that portion of said city not laid out in streets.

P. L. L., art. 4, sec. 872; 1842, c. 218. Limits of direct taxation. Proviso.

4. The mayor and city council have power to provide by ordinance or otherwise for the prompt collection of taxes due the city, and have power to sell real estate, as well as personal property, for the payment of taxes.[2]

Ibid, sec. 873. Collection of taxes. Enforcement of payment.

5. Whenever it shall become necessary to sell any part or parcel of ground in the city of Baltimore, improved or unimproved, for the payment of any taxes, or assessment of any nature or kind whatever, levied or charged, the collector shall first give thirty days' notice by advertisement published twice a week in two of the daily newspapers published in said city,

Ibid, sec. 874. Sale of property. Notice of sale.

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[1] Const. Art. 3, sec. 51, provides that: the personal property of residents of this State, shall be subject to taxation in the county or city where the resident bona fide resides for the greater part of the year, for which the tax may, or shall be levied, and not elsewhere, except goods and chattels permanently located, which shall be taxed in the city or county where they are so located.

[2] Taxes levied for the city of Baltimore, on real estate, prior to 1840, c. 63, [sec. 4, above] were not liens on the land, where there was a sufficiency of personal property on the premises taxed, to pay the same. *Dallam et al.* v. *Oliver's ex'rs*, 3 Gill, 445. *Mayor, &c.* v. *Chase*, 2 G. & J., 376.

The ordinance of the city of Baltimore authorizing the sale of real estate to pay taxes due the city, is a legitimate exercise of the power conferred by the act of 1840, c. 63, [sec. 4, above,] and makes the taxes a lien on the realty as much as a judgment at law. *Eschbach* v. *Pitts*, 6 Md., 71.

that he will sell at public auction on the day in the said advertisement mentioned, which day of sale shall be after the expiration of thirty days' notice.

Ibid, sec. 875. Purchase money.

6. The collector shall require the purchaser of such property on the day of sale, or the day next succeeding, to pay on account of said purchase the amount assessed or taxed on the lot so sold, together with all costs and charges, and no more, and the residue of the purchase money shall remain on a credit of one year and a day.

Credit.

Ibid, sec. 876. Redemption.

7. If the property so sold shall not be redeemed at the expiration of a year and a day from the day of sale, the collector shall, when required, and on payment of the full amount of the purchase money, execute a deed for the same to the purchaser, and the balance of the purchase money so received by him shall be paid to the city register.

Deed to purchaser.

Payment to register.

Ibid, sec. 877. Owner of property.

8. If it shall appear that the owner of the said lot or parcel of ground, prior to the execution of the deed for the same by the collector, cannot after reasonable effort be found, or shall refuse to receive said balance of money, then in either case the city register shall invest the same in any public debt of the State of Maryland or city of Baltimore, and shall safely keep the same, and from time to time collect the interest due thereon, and invest the interest from time to time in the said stock.

Investment of city stock, &c.

Ibid, sec. 878. Redemption within a year and a day.

9. When any lot or parcel of ground in the said city shall be sold by reason of the non-payment of the tax or assessment due thereon, the owner, or other persons having an estate or interest therein, shall have power to redeem the same at any time within one year and a day from the day of sale, on paying or tendering in payment to the collector the whole amount of money received by such collector from the sale of the lot or parcel of ground required to be released, and a further sum of one-half per cent. per month interest from the time of sale to the time of such tender, and the sums so paid shall be by the collector delivered or tendered to the pur-

chaser, whose right in the property so purchased shall thenceforth cease and determine.[1]

1861, c. 94, sec. 1. Within what time taxes to be collected, &c.

10. All taxes now levied, or which hereafter may be levied in the city of Baltimore, shall be collected within four years from the levying of the same; and the collection of taxes shall not be enforced by law after the lapse of said four years, and the party from whom said taxes may be demanded, may plead this section in bar of any recovery of the same.

Ibid, sec. 2. Penalty for collecting taxes after four years.

11. Any person enforcing or attempting to enforce the collection of any tax after the lapse of four years, as provided in the preceding section, shall be liable to a penalty of twenty dollars for each and every offence, recoverable before a justice of the peace, in the name of the State; one-half to the informer, the other half to the city of Baltimore.

BRIDGES AND HIGHWAYS.

P. L. L., art. 4, sec. 136. Tax by mayor and council.

12. The mayor and city council may lay and collect a direct tax, not exceeding fifty cents in the hundred dollars, on the assessed value of all lands and houses in said city, lying without the limits of direct taxation and within the exterior limits of said city, and may enforce the payment thereof as other direct tax, and the tenants in possession shall be liable to the payment of said tax imposed upon the premises occupied by them, without its operating, however, to alter the nature of contracts between landlords and tenants.

Ibid, sec. 137. How to be applied.

13. The taxes thus levied, after deducting the expenses of collection, shall be annually applied in making and repairing such of the public highways and bridges within the limits whereon the same is levied as they may deem most important, and they may provide by ordinance for the collection and expenditure thereof.

[1] The office of auditor, created by Ord. No. 58, June 18, 1852, and supplements thereto, and 1858, c. 369, was finally abolished by Ord. No. 6, Feb. 28, 1861, and Res. No. 16, Mar. 1, 1862, and its duties confided by the act of 1862, c. 148, to the collector or other officer on whom they shall or may be conferred by ordinance of the mayor and city council.

APPEAL TAX COURT.

P. G. L., art. 81, sec. 15. Appointment of duties.

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.

Ibid, sec. 16. Vacancies.

15. The mayor and city council shall fill all vacancies in said board as soon as practicable after any may happen therein, in the manner provided for in 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.

Compensation.

Ibid, sec. 17. Oath.

16. The persons appointed to compose said Appeal Tax Court shall, before they enter upon the performance of their duties, take an oath before a justice of the peace, that they will well and faithfully perform the duties required by law, without favor, affection or partiality.

Ibid, sec. 98. Register to make out list of holders of city stocks.

17. The register of the city of Baltimore, shall, within one month after the first day of April, annually, make out and deliver to the Appeal Tax Court for the city of Baltimore, a full and accurate list of the holders of the stock loans of said city, on the first day of April in the year for which said list is made, showing the several amounts held by the said stockholders respectively.

Ibid, sec. 99. Duty of Appeal Tax Court.

18. The said Appeal Tax Court shall in each year carefully examine the said list, and correct the same, by striking therefrom all the holders of said stock who may be exempt from taxation on said stock, and shall, on or befere the first day of June, annually, deliver one copy of the said list as corrected by them, to the said register, and one copy thereof to the comptroller, setting forth distinctly in said copies the assessed value of the stock mentioned therein.

Ibid, sec. 100. Duty of register

19. The register of the city of Baltimore shall, on the first day of July in each year, set apart and pay over to the treasurer of this State, out of the funds in his hands for the payment of the interest becoming annually due and payable on the first day of July, the State tax imposed by article 81 of Public General Laws, on all that part of said stock loan included in the said corrected list returned to him by the Appeal Tax Court, and shall deduct from the interest due and payable thereon, to each holder of said stock, his proportion of the amount so retained and paid to the treasurer.

Ibid, 101. Failure of register to make list. Duty of Appeal Tax Court.

20. If the said register shall at any time fail to make out and deliver to the Appeal Tax Court, the list of holders of the said stock loan, as herein required, it shall be the duty of the Appeal Tax Court to ascertain in such manner as they may deem most accurate, the amount of said stock loans of the city of Baltimore, outstanding on the first day of April in the year in which such failure or refusal shall take place, and on or before the first day of June in said year, make and deliver one copy of a statement certified by them, showing the amount of said stock so ascertained by them, and its assessed value, to the said register, and one copy thereof to the treasurer of the State; and the register shall thereupon set apart and pay the tax aforesaid, and deduct the same from the interest as aforesaid; but the said register shall not be required to set apart and pay over the said tax on any part of said stock loans which he may satisfy the treasurer by a certificate to that effect signed by the Appeal Tax Court, or by other satisfactory evidence, was held on the first day of April in the year for which the tax may become due, by any person entitled under the laws of this State to hold the same free from taxation. Certificate.

Ibid, sec. 102. Compensation.

21. Each member of the Appeal Tax Court shall receive fifty dollars annually, for the service required in the preceding sections; and the register of the city of Baltimore the sum of three hundred dollars for the services therein required of him;

the said sums to be paid by the treasurer on the warrant of the comptroller.[1]

COLLECTOR OF STATE TAXES.

1868, c. 366. Appointment.

22. The mayor and city council shall, on the first Tuesday in April in each year, or as soon thereafter as may be, appoint one collector for Baltimore city, for the collection of taxes levied, or to be levied for the current year; and it shall not be lawful for the municipal authorities of said city, to provide any fixed, annual or other stated compensation for the collection of the State taxes, or a salary of any kind, to the said collector for his services in collecting the State taxes, otherwise than by a per centum on the amount of his collections, as contemplated in section twenty-eight hereof.

Compensation.

Per centage.

1868, c. 366. Collector's 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 conditions that if the above bound ——— shall well and faithfully execute his office, and shall account 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.

1868, c. 366. Make deposits to credit of treasurer.

24. Every collector of State taxes in the city Baltimore, shall make daily deposits of such sums of money as he shall receive for taxes collected for said State, less the amount of commissions 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 school tax, as provided by law, to be designated by said treasurer, and on failure to make such daily deposits he shall, on proof thereof to the satisfaction of the governor, be liable to removal from office by the governor, and the comptroller shall immediately enter suit upon his bond.

In what bank.

Removal and suit.

[1] See Revenue and Taxes, Art. 81, P. G. L.; Sup. '61–'67; Sup. '68.

25. The treasurer of the State shall make weekly examination of the books of the collector of State taxes in Baltimore city, whose books shall always be open to such inspection. 1868, c. 366. Examination of books.

26. The said bond, when approved by the governor, shall be filed in the office of the comptroller of the treasury. 1868, c. 366. Bond to be recorded.

27. If there be no collector of State taxes qualified and compensated in conformity with the foregoing provisions, in the city of Baltimore, by the first day of May in any year, the governor shall appoint from any part of the State, a collector for the said city, who shall give bond with sureties, to be approved by the governor, and be in all respects on a footing with other State collectors' bonds, as provided in the case of the collector appointed by the mayor and city council of Baltimore, and the said collector shall have all the powers of other collectors. 1868, c. 366. When governor to appoint collector. Bond.

28. The mayor and city council of Baltimore shall levy upon the city of Baltimore within twenty days after a collector shall have been appointed, such commission as will in their judgment insure a speedy collection of State 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.[1] 1868, c. 366. Levy for commissions. Per centage.

ORDINANCES.

APPEAL TAX COURT AND ASSESSORS.

1. Annually, in the month of February, there shall be appointed as other city officers are appointed, three sensible and discreet persons to constitute and be styled the Appeal Tax Court, upon whom shall devolve all the duties and powers provided by the several acts of assembly and the ordinances relating to the valuation and assessment of taxable property; which said persons shall be appointed and commissioned, and No. 22, Feb. 21, '59 No. 27, April 1, '64; No. 65, Oct. 23, '65; No. 35, July 1, '68. Apeal Tax Court. Duties and powers.

[1] See Revenue and Taxes, art. 81, P. G. L., Sup. '61–'67; Sup. '68.

Bond. shall give bond for the faithful discharge of their duties, as other officers of the city, in such amount as the mayor may approve. There shall also be appointed at the same time, Clerk. and in the same manner, a clerk of the Appeal Tax Court, who shall, by virtue of his appointment, be one of the asses- Duties. sors of tax, and shall perform such other duties as the Appeal Tax Court may require. There shall also be appointed one Assessor. assessor, besides the one who shall be appointed clerk. The Salaries. salary of said judges shall be each fifteen hundred dollars per annum. The salary of their clerk as such, as assessor and as clerk of the board of arbitration, shall be fourteen hundred dollars; and the salary of the assessor shall be eleven hundred dollars per annum; and in consideration of the sums named, each of said officers shall be required to perform all the duties imposed on them by the provisions of this ordinance, or any duties hereafter required of them by the mayor and city council.

Ibid. s. 2. Assessors' duties. 2. The assessors of tax shall, under the direction of the Appeal Tax Court, assess all the property in the city of Baltimore, or so much thereof as the said court may deem necessary, at its cash value, in conformity with the provisions of the several acts of assembly and ordinances in relation thereto. Powers. The said assessors shall have and exercise all the powers granted to assessors under said acts of assembly and ordinances.

Ibid, s. 3. Office hours of Appeal Tax Court. 3. The judges of the Appeal Tax Court shall, with their clerk, meet at their office daily, at 9 o'clock, A. M., and continue until one o'clock, P. M., to attend to the duties required of them by this or any other ordinance of the mayor and city

Notice that they will receive lists of property of those liable to taxation. council. They shall give public notice at least two weeks previous to the first Monday in March, annually, in all the daily papers of the city, that they will receive from all persons liable to taxation, true and correct lists of all their property, both real and personal, except such as may be exempt from taxation, until the first Monday in June, and at the expiration of said term the assessors shall ascertain, value and assess,

agreeably to their best judgment, the property liable to taxation of all such persons as have failed to render a list of the same, and the property so assessed is that which shall be held by, or in the possession of, the person or persons to whom it may be assessed on the first day of March in each and every year. After the assessors shall have completed the valuation as aforesaid, and on or before the first day of November, the Appeal Tax Court shall give at least two weeks' notice of the same in all the daily papers of the city of Baltimore, and require all persons who may feel themselves aggrieved by the valuation and assessment aforesaid to appeal; and any aggrieved person or persons may, on or before the first Monday in December, appeal to said court; and alterations, additions, or deductions may be made although there be no appeal, if the Appeal Tax Court shall deem such alterations requisite; and the valuation of the property as it shall appear upon the assessors' books on the first Monday in March, shall be final and conclusive, and constitute the basis upon which the taxes for the ensuing year shall be assessed and levied.

Time allowed for appealing.

Alterations, additions or deductions.

When the valuation shall be final.

4. On the first Monday in March in each and every year, it shall be the duty of the Appeal Tax Court to render to the comptroller, in writing, a statement of the whole amount of assessable property on which taxes may be levied, and a detailed written statement showing the amounts of the additional assessments made on which taxes have not been levied for the preceding year; it shall also be the duty of the Appeal Tax Court to make a written report, in detail, to the mayor, on or before the first Monday in March, annually, showing the amount of assessable property abated during the preceding year, and the amount which is to be placed to the credit of the collector for said abatements, together with the amounts ordered to be charged to suspended accounts; and on the same day make up a statement of the assessable property of the city, and sign and enclose the same to the comptroller of the treasury of the State of Maryland.

Ibid, s. 4.

Statement of amount of assessable property to comptroller.

Report to mayor.

Ibid, s. 5. To fix value of stock of corporations.

5. Upon the application of any bank, insurance company, or other private corporation, the Appeal Tax Court may make such arrangements with said banks, insurance companies or private corporations, in an equitable manner, so as to fix the value of the stocks of each corporation on the first day of March annually, on which the taxes may be paid by the corporation without resort to individual stockholders.

Ibid, s. 6. Clerk of Superior Court to furnish list of alienations of property and mortgages entered on record.

6. The clerk of the Superior Court of Baltimore city shall annually, between the first day of January and the first day of February, make out for and deliver to the Appeal Tax Court a list of alienations of real, leasehold, household, and other property in said city entered on record during the past year from incorporated institutions to individuals, and all mortgages given in favor of residents of the city of Baltimore, and a list of all releases of such mortgages as had previously been reported to the Appeal Tax Court.

Releases of mortgages.

Ibid, s. 7. When to abate assessments.

7. The Appeal Tax Court are authorized to abate assessments on the books whenever the collector shall on his affidavit declare that in his judgment and opinion the taxes so reported cannot be collected, or upon other satisfactory evidence, the Appeal Tax Court shall direct the collector to close up said accounts on his books. And the said collector may present to the Appeal Tax Court any account on his books the collection of which, in his opinion, is deemed doubtful, and upon the declaration of the collector that diligent inquiry has been made in reference to such account, then the amount shall be charged to suspended accounts for the year in which the taxes were due; and the Appeal Tax Court may give such directions as may be deemed best calculated to secure the payment of any or all such accounts, and so much thereof as may be collected shall be credited on the suspended accounts.

When to close accounts.

When charge to suspended accounts.

Ibid, s. 8; No. 67, Nov. 17, '68. Empowered to refund taxes paid in error.

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 an order or orders in writing, to refund or repay the same, and shall reject all such claims as may be considered doubtful or not well founded; provided, not more than two years have elapsed from the first day of July in the year in which the levy was made for said taxes, to the time application is made for the refunding of the same. And the Appeal Tax Court shall keep a correct list or account of all claims for taxes presented to or examined by said court, which shall contain the name or names of the person or persons presenting such claims and the amount of each, including those rejected, and transmit a copy thereof annually, in February, setting forth those allowed as well as those rejected, with the reason for rejecting the same. And upon the representation of any tax payer that he or she has paid the taxes for which the collector has demanded payment, the Appeal Tax Court are hereby authorized to investigate the case, if the party shall declare his or her receipt has been destroyed or lost, and if undoubted proof or satisfactory evidence is given that the said bill has been paid, the claim shall be abated.

Proviso.

To keep lists of all claims, copy of same.

To investigate cases of alleged payment of taxes.

9. The Appeal Tax Court may correct errors discovered on the assessment books in the description of property, in the ownership of property, and errors in calculations, may make deductions in whole or in part, in cases of loss by fire, or of perishable property, where satisfactory evidence of such loss is given. Said Appeal Tax Court may make transfers of property if the taxes are paid up to and including the year in which the transfer is proposed to be made. In case of sale or transfer it shall be the duty of the Appeal Tax Court to interrogate the person or persons, on oath, in reference to acquisitions or investments made by persons applying for transfers or abatements, and the amount of such acquisitions in any description of security shall be added to the assessable property of the person so applying, and if the party making application refuse to answer no allowance whatever shall be made.

Ibid, s. 9.

To correct errors.

To make transfers.

Ibid, s. 10. Persons removing into city required to give account of personal property liable to be assessed.

10. Every person who shall remove to the city from the county, district or city in which his or her property is or may have been valued, or from any other place without the State, and where personal property shall not have been valued in said city, shall give, and he, she or they are hereby directed and required to give, to the Appeal Tax Court, a full account of his, her, or their personal property in said city liable to be assessed in said city, and the name of the person to whom any property owned by them, or under their control, or management, belongs; and any person refusing to give such account after ten days' notice, shall be subject to the penalties imposed on persons refusing or neglecting to account to assessors as heretofore provided. And the Appeal Tax Court shall direct the assessors to proceed to value the property for such sum as they may believe the same to be worth, and record the same on the assessors' books.

Penalties.

Ibid, s. 11. Appeal Tax Court to find out value of all property liable to taxation.

11. It shall be the duty of the Appeal Tax Court and the assessors of tax to inform themselves by all lawful ways and means, in such manner as they may deem best, in reference to all property in the city liable to taxation, and which may have escaped, or which may have been omitted in the regular course of valuation, and the assessors shall value such property, and record the same on the assessment books; provided no person shall be assessed unless they own or possess property to the value of fifty dollars.

Proviso.

Ibid, s. 12. List of rates allowed to bailiffs.

12. The Appeal Tax Court shall prepare a list of the rates allowed by law to bailiffs in the collector's office, and specify the cases wherein bailiffs are allowed by law to make an additional charge on the tax bills as made out by the collector. The rates and other regulations for bailiffs shall be printed and placed in the office of the Appeal Tax Court, and in conspicuous places in the collector's office.

No. 34, May 31, '65. Collector's bailiffs to act as assessors.

13. The bailiffs appointed by the collector shall have and exercise, under the direction of the Appeal Tax Court, all the powers of assessors as provided in this ordinance, and for

their services as assessors they shall each receive the sum of five hundred dollars per annum, payable monthly; provided, not more than ten bailiffs shall be so employed. Salary.

No. 22, s. 13, Feb. 21, '59.

14. The judges of the Appeal Tax Court, as provided in the first section of this ordinance, are hereby constituted and established a board of arbitration, for the purpose of adjusting and correcting matters at issue or in dispute, wherein the city is one of the parties, in such cases as are or may hereafter be provided. The clerk of the Appeal Tax Court shall also be clerk of the board of arbitrators; the said clerk shall keep a fair and full record of their proceedings, and perform all other duties the board may direct. No member of the board nor the clerk shall make any charge whatever for their services as arbitrators or clerk to the board. The said board of arbitrators shall hold their sessions in the office of the Appeal Tax Court, at such a day and hour as the Appeal Tax Court may designate, and at such time as their services may be required as arbitrators.

Judges of Appeal Tax Court constituted a board of arbitration.

Clerk.

Record.

Ibid, s. 14.

15. The action and decisions of said board shall in no case conflict with existing laws, ordinances, or other established regulations of the city goverment, and said board shall not interrupt, interfere with or prevent any officer of the city in the prosecution or performance of his legitimate duty.

Decisions not to conflict with existing laws, &c.

Ibid, s. 15.

16. In case any account, bill, claim or demand, for or against the city, shall be rejected or disputed, the party demurring may submit the case to said board for correction or adjustment, and if either party in the case fail to appear they shall proceed to investigate the case on the best evidence that can be obtained, and if both parties appear, the board shall hear the case stated by the party demurring and then by the defendant, and examine such evidence as may be produced, and report their proceedings to the mayor for his approval or rejection.

To investigate cases of dispute and report to mayor.

Ibid, s. 16.

17. Whenever any officer of the corporation, with the approval of the mayor, and the concurrence of all the parties

Cases in which decision of board shall be final.

concerned, shall agree to submit any case in controversy to the board for arbitration or correction, on giving bond when required, to abide by the decision, the board shall examine the case submitted, in all its bearings, and give their decision or award, which shall be final as far as the city is concerned.

Bond.

Ibid, s. 17, Board empowered to investigate cases of grievance by any officer of city.

18. On the representation of two or more responsible persons, made in writing to the board of arbitration, declaring themselves aggrieved by any officer of the city in an unlawful manner, the board may inquire into the case, and if it be of such nature as to require investigation, the board may call before them the officer against whom complaint has been made, and examine the charge, and if necessary, hear testimony or evidence on oath or otherwise, and submit their decision to the mayor.

Ibid. s. 18. The mayor authorized to fill vacancies.

19. In case of death, dismissal, or removal from office, the mayor is hereby authorized to fill any vacancy that may occur for the unexpired term of the judges of the Appeal Tax Court and the clerk or the assessors.

June 1, '39. Faith of city pledged to exemption of city stock from taxation.

20. The faith of the city is pledged, that no tax shall be levied or collected by the corporate authorities thereof on any stock debt of said city.

PERMITS TO ERECT BUILDINGS.

No. 37, s. 1, Apl. 11, '64. Permit to erect buildings.

21. It shall not be lawful for any person, without a permit from the Appeal Tax Court, to erect within the limits of the city, any building upon a new foundation, whether in connection with an existing building or not, or to pull down any old building or part of a building to the ground and build upon the old foundation, or to put an additional story upon any building or part of a building by increasing the height of the walls.

Ibid s. 2. Appeal Tax Court to grant permits.

22. It shall be the duty of the judges of the Appeal Tax Court, to grant such permit on application, without any charge, and to keep a record of the same. Any person who

Record.

shall offend against the provisions of the preceding section, shall forfeit and pay a fine of not exceeding twenty dollars, to be collected as other fines are; and it shall be the duty of the bailiffs employed in the collector's office to attend to the collection of such fines. Penalty.

23. Any person who has received a permit from the Appeal Tax Court as herein provided, and who shall refuse to exhibit said permit when thereto required by any police officer or officer of the city, shall forfeit and pay a fine of five dollars, to be recovered as other fines are recoverable. No. 16, Apl. 30, '69. Refusing to show permit to officer. Penalty.

COLLECTOR.

24. There shall be appointed annually, in the month of February, as other city officers are appointed, a collector of taxes, to be styled the city collector, whose duty it shall be to collect all taxes of every description levied or assessed by the mayor and city council of Baltimore, or by the general assembly of Maryland; who, before entering on the duties of his office, shall give bond to the corporation, with security to be approved by the mayor and the presidents of the two branches of the city council, or any two of them, the mayor being one, in the penal sum of seventy-five thousand dollars, conditioned for the true and faithful performance of the trust confided to him, and of the duties required of him by the acts of assembly and ordinances of the city of Baltimore, now existing or that may hereafter be passed, and also for the payment, on or before the fifth day of each and every month, to the register of the city, or such other officer or officers, person or persons, as may be authorized to receive the same, of all such sum or sums of money as he may have received since the previous payment, with a detailed statement, to be rendered under oath, showing the particular sources from which the money was received. No. 46, s. 1, June 2, '62; No. 68, Nov. 17, '63. Appointment. Bond. Conditions. Payment to register. Statement under oath.

25. The collector shall enter upon the discharge of the duties of his office on the first Monday in March, in each and every year, and his term of office shall expire, and all his Ibid, s. 2. Term of office.

authority as collector shall cease on the day next preceding the first Monday in March following, unless he shall have been re-appointed as provided in the preceding section.

Ibid, s. 3. Removal from office.

26. Any city collector, appointed by virtue of this ordinance, may be removed or suspended for cause, by the mayor, with the concurrence of a majority of both branches of the city council, or he may be removed by a vote of two-thirds of each branch of said council, without the concurrence of the mayor; and it shall be the duty of the collector, when so removed or suspended from office, as herein provided, forthwith to deliver to the register, all the money, books and papers that may be in his possession at the time of such removal or suspension; and in case of the suspension, removal, resignation or death of the collector, the register is hereby authorized and required to perform all the duties of collector, until he, the said collector, is reinstated, or his successor has been appointed, and shall have duly qualified, as the case may be.

Delivery of money, books, &c., to register.

When register to act as collector.

Ibid, s. 4. Charges against collector.

27. As soon as charges are preferred against said collector by the mayor or either branch of the city council, which affect his official character, it shall be the duty of the mayor immediately to suspend him from office, and at the same time furnish him with a copy of the charges against him; and the said collector shall have the privilege of answering the same before the city council in convention, by attorney or otherwise.

Supension.

Answering.

Ibid, s. 5. When mayor to convene council.

28. It shall be the duty of the mayor, in case of resignation, suspension from office, or death of the collector, during a recess of the city council, to convene said council within three days thereafter, for the purpose of examining the charges preferred against him, and of filling the vacancy in case of removal, resignation or death of said collector.

Ibid, s. 6. Books for ensuing year.

29. It shall be the duty of the collector to have prepared annually in the month of December, all the books required

for conducting the business of his office during the ensuing year, and to provide the necessary stationery from time to time. Stationery.

30. It shall be the duty of the collector to enter in the books of his office all accounts of taxes and money to be by him collected; and also to enter in said books the names of all the owners of property taken from the assessment lists, with a particular description of the same, and all other taxable articles, with the rate and amount of taxes charged to each of said owners; and he shall also enter the payments received, insolvencies and abatements allowed, and transfers made; and it shall be the further duty of said collector to enter on his ledgers, alphabetically, the entire account of each tax-payer, in one place, so that the whole may be seen and examined by the several persons to whom the taxes are assessed. Ibid, s. 7. Accounts for collection. Payments, insolvencies, abatements and transfers. Accounts of tax payers.

31. It shall be the duty of the collector daily to deposit to his credit, as collector of the city, in the bank designated by ordinance for the keeping of the account of the register, all moneys collected by him; and in case of the death, resignation, removal or suspension from office of the said collector, the amount of money so deposited shall be drawn by the register, upon an order countersigned by the mayor and comptroller. Ibid, s. 8. Deposits in bank. When register to draw money.

32. It shall be the duty of the collector, within one week after the final passage of each annual levy for city taxes, and the reception of the same by him, to give notice by advertisement in all of the regular daily papers published in the city, including those published in the German language, for at least one week, that the tax bills on such levy are ready for delivery, and requesting all persons liable to taxation to call at his office and receive the same. Ibid, s. 9. Notice. Publication. Tax bills.

33. It shall be the duty of the collector, as soon as each annual levy is made, to separate the tax on real estate and chattels real, from the tax on personal chattels, stocks of in- Ibid, s. 10. Taxes on real estate, personal chattels, &c.

corporated institutions and other like securities, in all bills or charges issued by him for the collection of city taxes, and he shall require the latter tax to be paid within five months from the first day of May in each and every year; and the said collector is hereby authorized and directed to allow on the respective bills so made or charged, on personal chattels, stocks and other like securities, as aforesaid, a discount of eight per cent. if paid on or before the first day of May, in the year for which said taxes are imposed; if paid on or before the first day of June, six per cent.; if paid on or before the first day of July, four per cent.; if paid on or before the first day of August, two per cent.; and if paid on or before the first day of September, one per cent.

Discounts on personalty.

Ibid, s. 11. Enforcement of payment.

34. If said taxes levied on personal chattels, stocks and securities as aforesaid, be not paid on or before the first day of October, in the year for which the levy is made, payment of the same shall be enforced under any enactment existing for the collection by distress, sale or otherwise, of real or personal property, for the non-payment of taxes.

Ibid, s. 12. Discounts on realty.

35. If the said taxes levied on real estate and chattels real, be paid on or before the first day of May,[1] in the year for which said taxes are imposed, the collector is hereby authorized and directed to allow on the respective bills so made and charged, a discount of five per cent.; if paid on or before the first day of June, four and one-half per cent.; if paid on or before the first day of July, four per cent.; if paid on or before the first day of August, three and one-half per cent.; if paid on or before the first day of September, three per cent.; if paid on or before the first day of October, two and one-half per cent.; if paid on or before the first day of November, two per cent.; if paid on or before the first day of December, one per cent.; and if paid on or before thirty-first day of December, one-half of one per cent. On all of said bills not paid on or before the first day of January next succeeding the year

When interest added.

[1] For discount on State taxes, see 1864, c. 199, Sup. 61-67, p. 258.

for which said taxes are imposed, interest at the rate of six per cent. per annum shall be added, computing from said first day of January until paid.

Ibid, s. 13.

When bills to be delivered.

36. It shall be the duty of said collector to cause to have made out and delivered, a bill, on or before the first day of November, in each year, to each person assessed for city or State taxes on real estate and chattels real, as aforesaid, or to his, her or their agent, or left at the place of abode of such person or agent of the property so charged, and not calling for a copy of his, her or their bill of taxes for the current year; and further giving notice at the same time, on the back or face of said bills, that unless the taxes shall be paid on or before the first day of January next ensuing, the said bills will be placed in the hands of bailiffs, who shall at once proceed to collect the same as provided for by existing laws; and further, the agent or agents of said collector, delivering the bills as aforesaid, shall keep a memorandum book, in which he or they shall accurately note the names of persons so notified, with the place and time of delivery of said bills; and in order that all due information may be given to the tax-payer, in reference especially to the various rates of discount allowed for prompt payment of the several kinds of taxes, as well as the addition of interest for non-payment, the collector is hereby authorized and directed, towards the close of each month, to give a short notice in all of the regular daily papers published in the city, including those in the German language, at least twice, in which the said rates of discount allowed or interest chargeable, as the case may be, shall be distinctly stated.

Notice on bills.

Bailiffs.

Memorandum book.

Notice to be published.

Ibid, s 14.

To draw on register for expenses, &c.

37. The said collector is hereby authorized to draw on the register for all expenses incurred by him for books, stationery, printing of notices and bills, also for all advertisements necessary to carry out the several provisions of this ordinance, to be charged on the books of said register as a part of the general expenses of the city government.

Duty of register

Ibid s. 15. Distress, &c., for State taxes.

38. All the provisions of this ordinance in relation to enforcing payment by distress, sale or otherwise of city taxes, shall be made to apply, in all respects, to the collection of State taxes.

Ibid, s. 16. Jurors' orders, how received.

39. The collector shall receive as cash in payment of taxes due the city, all orders drawn in favor of jurors upon and accepted by the register, and for such amounts as shall have been allowed upon the returns made by the clerk of the court in which said jurors may have served.[1]

Ibid, s. 17; No. 10, Mar. 3, '68; No. 36, June 9, '65. Advertisements Lists of taxes in arrear.

40. The collector is hereby directed to advertise prior to the twentieth day of March, in each year, in two daily newspapers published in the city, (one of which shall be in the German language,) three times only, a list of all unpaid collectable taxes in arrear, in his office, except such as may be in a state of adjustment and liquidation; the advertisement to set forth that if the said taxes are not paid in conformity with the laws of the State and the ordinances of the city, he will proceed, and he is hereby so required, to collect the same by distress or sale; said advertisement also to indicate the name of the person or persons to whom the property is assessed, the street, lane or alley in which it is located, the year or years for which the taxes are due, and the original amount of said taxes, exclusive of interest and costs. The name, street and amount of taxes to be embraced in a single line, whenever practicable, and the collector, in addition to the publication of such list, shall for one week publish in all of the other daily papers a short notice, stating the names of the papers in which said list may be published at length, and the object of the same.

Names of persons.

Notice.

Ibid, s. 18. Notice before distraining.

41. The collector shall not order distress for any arrearages of taxes until he has first given to the person or persons so in arrear, or has left at his, her or their residence, or last known residence, or if neither can be found, on the premises, a statement of his, her or their indebtedness, and not less than

[1] See p. 455, *ante*.

thirty days' notice of his (the said collector's) intention, if the bill is not paid within the time named, to enforce payment thereof; and in case the aforesaid person or persons reside out of the city, said statement and notice shall be forwarded through the post office to his, her or their place of residence, if known. Post office.

42. Whenever it may, in the opinion of the collector, be necessary to have a plat made of the property to be offered for sale for State or city taxes, the said collector is hereby authorized to allow the city surveyor five dollars for each plat consisting of not more than two pieces or parcels of adjoining ground to be offered for sale; if said plat shall exceed two adjoining lots or parcels of ground, two and a half dollars for each; provided that for no one plat shall he be allowed more than ten dollars, and in no case shall the surveyor be allowed more than the sums named in this section for any plat made by him by direction of the collector; and in no case shall the said collector charge or exact any fees or commissions from the parties whose property may have been advertised, offered for sale, or sold, other than those provided by law or ordinance. Ibid, s. 19. Plats. Surveyor's fees. Proviso. Fees and commissions.

43. The collector is hereby authorized and directed to make a charge on such unpaid tax bills, pro rata, for the space occupied by each, for the actual cost incurred by said advertisement, and the actual cost of the plat when made, in addition to the interest due. Ibid, s. 20. Charge pro rata.

44. When any lot or lots of ground, improved or unimproved, may be chargeable with the payment of taxes, and such lot or lots are subject to ground rent or lease for a term of years, renewable forever, it shall be the duty of the collector, in the sale of such lots for the non-payment of taxes, to sell the leasehold interest only, with the improvements erected thereon, if any; provided, however, that in case the said leasehold interest and improvements shall not sell for the amount necessary to pay the taxes due on said lots, together Ibid, s. 21. Lots of ground. When to sell leasehold interest. Proviso.

with the lawful costs, charges and interest as aforesaid, then the said collector shall sell the whole fee simple of such lots; and provided further, that the provisions of this section shall not apply in cases where the books of the city do not disclose the fact that the lot or lots are on lease as aforesaid, or unless the collector shall have actual notice of such lease prior to the sale thereof.

When to sell fee simple. Proviso.

Notice of lease.

Ibid, s. 22. Pay auction fees.

45. Whenever it shall become necessary to sell any part or parcel of ground for the payment of any tax or assessment due, of any kind whatever, levied or charged, the collector shall require the purchaser at the time of sale to pay on account of said purchase the sum of two dollars as auction fees, also the expenses of advertising, and other costs accruing, together with the amount assessed or taxed on the lot or parcel of ground so sold, and no more; the residue or balance of the purchase money shall remain on a credit of one year and a day; and if the property so sold be not redeemed within the time and as provided for in this ordinance, the said collector, on receiving the balance of the purchase money, shall execute a good and sufficient deed of the same in favor of the purchaser or purchasers, subject to any ground rent reserved thereon; the balance of said purchase money so received, shall be paid, or tendered in payment to the owner or owners of the lot or parcel of ground sold as aforesaid; and if it shall so happen that said owner or owners, after reasonable efforts, cannot be found, or he, she or they, or their agents, shall refuse to receive said balance, then, in either case, the collector shall invest the same in any public debt of the city of Baltimore, bearing interest at the rate of six per cent. per annum, for the benefit of such owner or owners, and deliver the certificates to the register of the city, who shall keep and take an account of the same, and from time to time collect the interest due thereon, and invest the amount so received in like securities.

Credit of year and day.

Deed.

Balance of purchase money.

Investment in city stock.

Register to take charge of certificates.

Ibid, s. 23. Redemption within a year and a day.

46. When any lot or parcel of ground, improved or unimproved, shall have been sold under any law or ordinance, by reason of the non-payment of any tax or assessment due there-

on, the owner or owners, or other persons having an estate or interest therein, and they only, shall have the right and privilege to redeem the same, at any time within one year and a day from the day of sale, on his, her or their paying, or tendering in payment to the collector, the whole amount received from the purchaser or purchasers of said lot or parcel of ground, and the further sum of one-half of one per cent. per month, as damages, estimating from the day of sale to the time of such tender; and the sum thus received by the collector shall be by him paid or tendered in payment to the said purchaser or purchasers, whose right in and to the property purchased as aforesaid, shall at once cease; and the said collector is hereby authorized and directed to refund to the said purchaser or purchasers, the purchase money received for any sales made by him as aforesaid, or by any previous collector of tax for the city of Baltimore, for arrearages of taxes, when, in the opinion of the city counsellor, such sale was not lawfully made from any cause whatever.

Interest.

Refunding to purchaser.

Counsellor.

47. Whenever any tax that has been assessed by the city commissioner for paving any street, lane or alley, or any part thereof, in the city of Baltimore, shall have remained unpaid for the space of four months after said paving has been completed, for which the assessment was made, the collector is hereby authorized and required to proceed to enforce payment thereof as herein provided for the collection of taxes in arrears on real estate.

Ibid, s. 24. Paving tax.

Enforcing payment.

48. When any contractor or contractors for paving or repaving any street, lane or alley in the city of Baltimore, shall withdraw from the collector any bill or bills for said paving or repaving, as the case may be, which he or they are hereby authorized to do, on paying or securing to be paid to the city the commisson of three per cent. on all such bill or bills, and after the same has been withdrawn, the said collector and his sureties shall cease to be liable in any way for the collection of said bill or bills, and the amount shall be charged to the

Ibid, s. 25. Paving contractors.

Commission of three per cent.

account of said contractor or contractors, as if collected by the city collector and paid over to him or them in cash.

Ibid, s. 26. Paving.

49. In all cases where a tax shall be assessed for paving or repaving any street, lane or alley as aforesaid, which is hereby made the duty of the collector to collect, the city commissioner is hereby authorized to have a plat made out of the property, giving the width of the front, depth and full description of each lot of ground on which said tax has been assessed, which tax shall be a lien on the property, taking precedence of all other liens, except for other taxes previously assessed, and binding upon each and all interests in said property; which taxes the said collector is hereby directed to collect as herein provided for the collection of taxes in arrears on real estate.

Plat.

Lien.

How tax collected.

Ibid, s. 27. When collector to notify parties assessed for benefits.

50. After the expiration of the time allowed by law or ordinance for making appeals from assessments made by the commissioners for opening streets, when required to open any street, lane or alley, and no appeal has been made, or after the return of an appeal has been made to the register, said return, together with the return made by the said commissioners, shall be handed over to the collector, who shall at once proceed to notify the several parties assessed for benefits, by means of bills specifying the sums so assessed to each, with a deduction for damages allowed, if any; and if the same be not paid within six months from the time said return or returns were received by the collector, he shall proceed to enforce the collection of said bills in same manner as herein provided for the collection of taxes in arrears on real estate.

Six months.

Enforcing payment,

Ibid, s. 28. Opening streets

51. The collector, on receiving the full amount of purchase money for sales of property made in consequence of opening streets, lanes or alleys as aforesaid, shall execute a deed of conveyance in favor of the purchaser or purchasers, which deed shall convey a fee simple or leasehold estate, as the case may be, in and to such property; and after deducting the costs of sale, advertising and other necessary expenses, he

Deed.

shall pay the balance of the purchase money to the register of the city, who shall pay over the same to the person or persons entitled thereto, first deducting the sum, if any, assessed as benefits to said person or persons; the payment to be made on demand, without interest. Balance of purchase money to register.

52. After the city commissioner shall have issued his warrant, approved by the mayor, to the collector, for the collection of any tax or assessment for the paving or repairing of footways, which tax shall be a lien on the lot or lots in front of which said paving or repairs have been made, and shall have also delivered to the collector a list of the names of the person or persons by whom the taxes or assessments are due, with the amount due by each, it shall be the duty of said collector, and he is hereby required to deliver bills of the same to said person or persons, with a notice that if not paid within thirty days thereafter, he will proceed to collect the same in like manner as herein provided for taxes in arrears on real estate. Ibid, s. 29. City commissioner to issue warrant. Paving, &c. footways. Lien. List of persons assessed. Bills. Thirty days.

53. In order to afford every facility to tax payers in ascertaining when any of their property has been sold to pay taxes in arrears as aforesaid, and that they may have the opportunity to redeem the same within the time allowed by law, the collector is hereby required to have lists made out within sixty days from the day on which any property may be thus sold, with the date of sale, name of party to whom assessed, location of property, amount of taxes and costs, year or years for which due, amount sold for and name of purchasers, clearly stated; said lists to be entered in a book kept for the purpose in the collector's office, each entry embraced in a single line when practicable, and open to the inspection of parties interested, to whom all explanation shall be made by said collector, when so requested, to enable them to identify their property. Ibid, s. 30. Lists of property sold for taxes. Book in collector's office open to inspection.

54. Whenever any money is in the care or custody of the register or city collector to be paid to any person or persons whomsoever, for or on account of the balance of the purchase No. 20, April 17, '63. Title to property.

money in the sale of any property for the non-payment of taxes or money due to any person or persons for damages assessed for the opening of any street, lane or alley, or money claimed by any person or persons as owner of any property whatsoever, or where an examination of title shall be necessary before the payment of any money by the register or collector, the person or persons applying for or claiming the same shall first satisfy the city solicitor by a certified examination of his, her or their title, which shall be paid for by the person or persons making the application, that he, she or they are the owners of the property so sold as aforesaid, or upon which damages are awarded as aforesaid, or upon which any money shall be so asked or demanded as aforesaid, and the collector or register shall not be authorized to pay out any such money, until he shall receive the certificate of the city solicitor as aforesaid, together with said certified abstract of title.

Examination.

City solicitor.

Certificate.

Ibid, s. 31.
State taxes.

55. The said collector shall collect from the State of Maryland the State's proportion of the expenses incurred in the collection of the State taxes, as now or may hereafter be fixed by law, and pay the same into the city treasury.

Ibid s. 32; No. 54, May 27, '68; No. 36, June 9, '65; No. 2, Mar. 24, '66; No. 14, Mar. 10, '64.
Collector and officers.
Salaries.

56. The collector shall receive as full compensation for the duties that are now or hereafter may be required to be performed by him, by the laws of the State and ordinances of the city, the yearly salary of two thousand dollars; and he shall have authority to appoint and remove one deputy collector, whose duty it shall be to take charge of all arrears of taxes, and assist the collector, and whose salary shall be sixteen hundred dollars per annum; one cashier, whose salary shall be fifteen hundred dollars per annum; one assistant cashier, whose salary shall be thirteen hundred dollars per annum; one book-keeper, whose salary shall be fourteen hundred dollars per annum; and, one assistant book-keeper, whose salary shall be thirteen hundred dollars per annum; nine ledger clerks, who shall each receive a salary of twelve hundred dollars per annum, and ten bailiffs. All of said ap-

pointees being hereby required to comply with all ordinances of the city in the same manner as if appointed by the mayor and city council; and for all of their acts the collector shall be held responsible under his bond.

To comply with ordinances.

Collector responsible.

57. The collector of State taxes in the city of Baltimore shall receive as a compensation for his services, one per centum on the amount of State taxes collected by him, to be collected as provided for in the acts of assembly.[1]

No. 28, Ap'l 25, '68.

Collector of State taxes. Commissions.

LIMITS OF DIRECT TAXATION.

58. Ordinance No. 65, June 28, 1868, enacted the following: The limits of direct taxation are extended to the following bounds and to embrace the districts herein described, that is to say: beginning for the same at the intersection of Eastern avenue and Dillon street; thence westwardly along the centre of Dillon street until it intersect Patuxent street; thence northwardly along the centre of Patuxent street until it intersect the centre of Hudson street; thence westwardly along the centre of Hudson street until it intersect the centre of Chesapeake street; thence northwardly along the centre of Chesapeake street until it intersect the centre of Lancaster street; thence westwardly along the centre of Lancaster street until it intersect the centre of Patapsco street; thence northwardly along the centre of Patapsco street until it intersect the centre of Lombard street; thence westwardly along the centre of Lombard street until it intersect the centre of Gist street; thence northwardly along the centre of Gist street until it intersect the centre of Fayette street; thence westwardly along the centre of Fayette street to the centre of Wolf street; thence northwardly along the centre of Wolf street to the centre of Orleans street; thence westwardly along the centre of Orleans street to the centre of Ann street; thence northwardly along the centre of Ann street to the

Limits of direct taxation.

[1] See sec. 28, p. 909, *ante*

Limits of direct taxation.

centre of Jefferson street; thence westwardly along the centre of Jefferson street to Broadway; thence northwardly along the centre of Broadway to the centre of Monument street; thence eastwardly along the centre of Monument street to the centre of Ann street; thence northwardly along the centre of Ann street to the centre of Madison street; thence westwardly along the centre of Madison street to the centre of Bond street; thence northwardly along the centre of Bond street until it intersect the centre of Chew street; thence eastwardly along the centre of Chew street until it intersect the centre of Broadway; thence northwardly along the centre of Broadway to Belair avenue; thence along Belair avenue to the centre of Chase street; thence westwardly along the centre of Chase street until it intersect the centre of Bond street; thence northwardly along the centre of Bond street to the centre of the Point road; thence along the centre of Point road until it intersect the centre of John street; thence westwardly along the centre of John street until it intersect the centre of Eden street; thence northwardly along the centre of Eden street until it intersect the centre of Hoffman street; thence westwardly along the centre of Hoffman street until it intersect the centre of Central avenue; thence northwardly along the centre of Central avenue until it intersect the centre of Lanvale street; thence westwardly along the centre of Lanvale street until it intersect the centre of Aisquith street; thence southwardly along the centre of Aisquith street to the centre of Hoffman street; thence westwardly along the centre of Hoffman street to the centre of Valley street; thence southwardly along the centre of Valley street to the centre of Chase street; thence westwardly along the centre of Chase street until it intersect the centre of York avenue; thence northwardly along the centre of York avenue until it intersect the centre of John street; thence westwardly along the centre of John street until it intersect the centre of Constitution street; thence southwardly along the centre of Constitution street until it intersect the centre of Chase street; thence westwardly along the centre of Chase street until it intersect

the centre of North street; thence northwardly along the centre of North street to the centre of Biddle street; thence westwardly along the centre of Biddle street until it intersect the centre of Charles street; thence northwardly along the centre of Charles street until it intersect the centre of Oliver street; thence westwardly along the centre of Oliver street until it intersect the centre of Decker street; thence northwardly along the centre of Decker street until it intersect the centre of Federal street; thence westwardly along the centre of Federal street until it intersect the centre of Cathedral street at its intersection with Dolphin street; thence along the centre of Dolphin street until it intersect the centre of John street; thence northwardly along the centre of John street until it intersect the centre of McMechen street; thence eastwardly along the centre of McMechen street to the centre of North avenue; thence westwardly along the centre of North avenue to the intersection of John street; thence southwardly along the centre of John street to the centre of Wilson street; thence westwardly along the centre of Wilson street to the centre of Park avenue; thence southwardly along the centre of Park avenue to the centre of Mosher street; thence westwardly along the centre of Mosher street to the centre of Druid Hill avenue; thence northwardly along the centre of Druid Hill avenue to the centre of Wilson street; thence westwardly along the centre of Wilson street until it intersect Division street; thence northwardly along the centre of Division street to the centre of North avenue; thence westwardly along the centre of North avenue to the centre of Cumberland street; thence along the centre of Cumberland street until it intersect the centre of Carey street; thence southwardly along the centre of Carey street until it intersect the centre of Gold street; thence westwardly along the centre of Gold street until it intersect Calhoun street; thence southwardly along the centre of Calhoun street until it intersect the centre of Presstman street; thence eastwardly along the centre of Presstman street until it intersect the centre of Fremont

Limits of direct taxation.

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street; thence southwardly along the centre of Fremont street until it intersect the centre of Tenant street; thence westwardly along the centre of Tenant street until it intersect the centre of Republican street; thence southwardly along the centre of Republican street until it intersect the centre of Adams street; thence eastwardly along the centre of Adams street until it intersect the centre of Fremont street; thence northwardly along the centre of Fremont street until it intersect the centre of Lanvale street; thence eastwardly along the centre of Lanvale street until it intersect the centre of Chatsworth street; thence southwardly along the centre of Chatsworth street until it intersect the centre of George street; thence westwardly along the centre of George street until it intersect the centre of Fremont street; thence northwardly along the centre of Fremont street until it intersect the centre of Thompson street; thence westwardly along the centre of Thompson street to the centre of Wansback or Oregon street to the centre of Franklin street; thence westwardly along the centre of Franklin street to the centre of Carey street; thence southwardly along the centre of Carey street until it intersect the centre of Saratoga street; thence westwardly along the centre of Saratoga street until it intersect the centre of Calhoun street; thence northwardly along the centre of Calhoun street until it intersect the centre of Mulberry street; thence westwardly along the centre of Mulberry street until it intersect the centre of Gilmor street; thence northwardly along the centre of Gilmor street until it intersect the centre of Franklin street; thence westwardly along the centre of Franklin street until it intersect the centre of Fulton street; thence along the centre of Fulton street until it intersect the centre of Lexington street; thence westwardly along the centre of Lexington street until it intersect the centre of Monroe street; thence southwardly along the centre of Monroe street until it intersect the centre of Fayette street; thence eastwardly along the centre of Fayette street until it intersect the centre of Fulton street; thence southwardly along the centre of Fulton street until it intersect the centre of the Frederick road;

thence westwardly along the centre of the Frederick road to the city limits; thence southwardly along the city limits to McHenry street; thence eastwardly along the centre of McHenry street to the centre of Gilmor street; thence northwardly along the centre of Gilmor street to the centre of Pratt street; thence eastwardly along the centre of Pratt street to the centre of Calhoun street; thence southwardly along the centre of Calhoun street to Cole street, and thence in continuation of the present lines of direct taxation. [1]

Limits of direc taxation.

Decisions.

The power of a tax-collector to make sale of real estate for the payment of taxes so as to convey a valid title to the purchaser is one which is specially delegated and must be strictly pursued. A series of acts, preliminary in their character, are required by law to precede the execution of the power; each and every one of which is separate, independent and essential, and if any one of them be wanting, the whole proceeding is defective for want of sufficient authority to support it. *Polk* v. *Rose et al.*, 25 Md., 153. *Alexander* v. *Walter*, 8 Gill, 239.

As to taxing stock of incorporated institutions, see *Ins. Co.* v. *Mayor, &c.*, 23 Md., 309, and 1864, c. 391, Sup. 61–67, p. 260 &c. *Donovan* v. *Firemen's Ins. Co.*, 29 Md. *Gordon's Ex'r* v. *Mayor, &c.*, 5 Gill, 231. 1862, c. 251, explained by 1865, c. 119, (sec. 2, p. 902, *ante*,) was intended to subject to city taxation every species of property, actually situate within the city, nothwithstanding the residence of the owner might be elsewhere. *Ins. Co.* v. *Mayor, &c.*, 23 Md., 311.

In an action for the recovery of taxes upon mortgages of real estate lying in the city of Baltimore, assessed to the trustee of said property, residing at the time of the assessment and of the institution of the suit in Howard county, the *cestuis que trust* residing at the same time in said city; held: that taxes assessed upon a trust estate constitute a legal cause of action against the holder of the legal estate. That L. was the holder of the legal estate upon the valuation of which the taxes sought to be recovered were imposed; and upon the construction given to the

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[1] The previous ordinances extending the limits of direct taxation, are as follows: No 82, May 13, '59; No. 34, June 11, '58; No. 36, May 9, '53; No. 48, June 10, '50; No. 5, March 14. '50; March 25, '46; act of 1830, c. 139, and report of commissioners thereunder, of Nov. 5, 1831.

Bill of Rights, as well as upon the general rule above stated, he was the proper person to be assessed for their payment; and the assessment of the tax to the holder of the real estate, through him, reaches and fastens upon the beneficial owner. That a like construction should be given to the acts requiring "all property owned by persons residents of the State, and not permanently located elsewhere within the State, to be valued to the owner in the county, district, or city wherein he or she may reside," [see 1866, c. 157, s. 9, Sup. 61–67, p. 274,] that these provisions contemplate the holding of the legal estate. Upon the principle that the possession of personalty follows the person owning the legal title, the mortgages on the valuation of the amount of which the assessment of the taxes was made, so far as they could be made the basis of an assessment, were beyond the jurisdiction of the city of Baltimore. The recording of a mortgage in another county or district than that of the creditor's residence, cannot have the effect of locating the debt where the mortgage is recorded. *Latrobe, trustee,* v. *Mayor, &c.*, 19 Md., 12. See note p. 903, *ante.*

Scott, C. J., held in *Gill* v. *Mayor, &c.*, that where a party sells property, gives a deed, and takes a mortgage to secure the payment of the balance of the purchase money, that the city has no right to tax said mortgage given for purchase money; that the property being taxed to the owner, a tax on a mortgage of this kind would be a double tax, and cannot be recovered.

1867, c. 341 (Sup. '61–'67, p. 285, 274) exempts from taxation all mortgages for purchase money in the hands of the original mortgagee, or of his executors, administrators and legal representatives, in the case of the death of the mortgagee; together with all equitable liens for the purchase money of lands and real estate which may remain due and unpaid.

ARTICLE XLVI.

TENANTS FOR YEARS OR AT WILL.

STATUTES.

1. Ninety days' notice to terminate tenancy from year to year.
2. Thirty days' notice to terminate tenancy for less time.
3. Thirty days' notice to terminate tenancy at will, sufferance, or *pur autre vie*.
4. Tenant may terminate either by thirty days' notice.
5. Notice to be in writing: on whom and how to be served.
6. What sufficient notice.
7. No other notice necessary.
8. Notice may be fixed by agreement
9. One justice to have jurisdiction.
10. Upon non est, second summons to issue for tenant: if not found, copy to be left with occupant: if vacant, copy to be left on premises.
11. Landlord may file interrogatories copy to be served.
12. Interrogatories to be answered, or taken as confessed.
13. Manner of serving copy.
14. Jury to assess damages and expenses for landlord.
15. When for tenant.
16. On failure to assess, jury to be resummoned.
17. Notice of second meeting: other jurors to be summoned if any have died or are absent.
18. Tenant may be made to pay double rent.
19. Appeal given.
20. Not removable except by appeal.
21. Proceedings not to be reversed for form.
22. Appeal to be tried at first term.
23. Heirs, executors and assigns to have benefit of.
24. Witnesses not attending may be attached.

STATUTES.

1. Where any lands or tenements in the city of Baltimore are held from year to year, the tenancy shall be terminated if the lessor give to the tenant ninety days' notice before the end of the year.

P. L. L. art. 4, sec. 882.

Ninety days' notice to terminate tenancy from year to year.

2. If land be held in said city under a lease for a month, or any less period than a year, and the tenant continues to occupy under such lease after its expiration, he shall be deemed a tenant for such period as the premises were originally leased to him, and so from such period to such period, and if

Ibid, sec. 883.

Thirty days' notice to terminate tenancy for less time.

his landlord give him thirty days' notice before the termination of any period of his tenancy, it shall terminate such tenancy.

Ibid, sec. 884. Thirty days' notice to terminate tenancy at will, sufferance, &c.

3. If lands or tenements be held in said city by tenancy at will, at sufferance, or *pur autre vie*, thirty days' notice by the landlord or reversioner to the tenant or occupant shall terminate such tenancy at the expiration of thirty days.

Ibid, sec. 885. Tenant may terminate either by thirty days' notice.

4. Any of the tenancies mentioned in the three preceding sections may be terminated by the tenant's giving notice to the landlord thirty days previous to the end of the year, or other period for which he holds the same.

Ibid, sec. 886. Notice to be in writing.

On whom and how to be served.

5. The notice required by the preceding sections shall be in writing, and served on the tenant or left at his place of abode or business, or served on his agent or servant, or served on any occupant of the premises; and if there be no person living on the premises, the same may be served by being set up on a conspicuous part of the premises.

Ibid, sec. 887. What sufficient notice.

6. Such notice shall be sufficient in form if it contain a request by the landlord to the tenant to leave the premises, or if it state the intention of the tenant to leave the same, and it need not state the time when the tenant is requested to leave the same, or when the tenant intends to do so.

Ibid, sec. 888. No other notice necessary.

7. Such notice, without any additional notice, shall entitle the landlord to the benefit of the law providing for the speedy recovery of the possession of lands or tenements held over by tenants.

Ibid, sec. 889. Notice may be fixed by agreement.

8. If by agreement of the parties the time and manner of notice is specified, such notice shall be given as the agreement provides, and when given by the landlord, shall entitle him to all the benefits of the preceding sections without any other notice.

1861, c. 90. One justice to have powers.

9. One justice of the peace of said city shall have all the powers conferred upon two justices and a jury by the Public General Laws in relation to landlords and tenants, subject to

appeal as in other cases of judgments by justices of the peace in said city. Appeal.

10. If the summons issued for the tenant in a proceeding to dispossess him be returned non est, a second summons, returnable in not less than five days, shall be issued, and if the tenant shall not be found, a copy of the second summons shall be left with the occupant of the premises, or if they be vacant, affixed to some principal building, or if no building, then set up on the premises, and on the day assigned in the summons for the appearance of the party the justice shall proceed as if he had appeared. P. L. L., art. 4, sec. 891. Upon non est, second summon to issue for tenant. If not found copy to be left with occupant or on premises.

11. The landlord or reversioner may file with the justice interrogatories to be answered by the tenant, touching the tenancy or notice, or for any other matter of evidence in support of the pretensions of said landlord or reversioner, in and about such proceeding. Ibid, sec 892. Landlord may file interrogatories, copy to be served.

12. If a copy of such interrogatories be served on the tenant, he shall answer the same before the third day, exclusive of the day of service; and upon his failure to answer the matters inquired of by such interrogatories, they shall be taken as confessed by him, but on cause shown the justice may give further time for answering, not exceeding eight days in the whole, from and exclusive of the day of service. Ibid, sec. 893. Interrogatories to be answered or taken as confessed.

13. The copies of the interrogatories herein directed to be served may be served in the same manner that notices to quit are herein directed to be served. Ibid, sec. 894. Manner of serving copy.

14. If in any proceeding by a landlord to dispossess a tenant, the inquisition or verdict shall be found in his favor, the jury shall assess against the tenant holding over the premises damages not exeeding double the rate of the rent of said tenancy, and also for the expenses of said landlord or reversioner in and about said proceeding over and above the legal costs thereof, and shall render a verdict for the amount of said damages and expenses, for which amount, as well as the Ibid, sec. 895. When jury to assess damages and expenses for landlord.

costs, the justice shall render judgment in favor of the lessor or reversioner, to be enforced by execution.

Ibid, sec. 896. When for tenant.

15. But if the jury shall find against the landlord or reversioner, they shall assess such damages as they shall deem just to be paid by him to the tenant, for which, and costs, judgment shall be rendered and enforced as aforesaid.

Ibid, sec. 897. On failure to assess, jury to be be resummoned.

16. If the jury shall omit to assess damages, the said justice may, at any time before the eleventh day after and exclusive of the day of rendering the verdict, by warrant to the sheriff of the city, order said jury to be re-summoned to make said assessment and render a verdict thereon, which verdict shall have the same effect as if rendered immediately on rendering said principal verdict.

Ibid, sec. 898. Notice of second meeting. Other jurors.

17. Such reasonable notice shall be given to the tenant as the justice shall deem proper, of the time of the second meeting of said jury; and the said justice may summon other jurors in place of any of said jury who shall have died or who shall be returned by the sheriff as sick or not to be found.

Ibid, sec. 899. When tenant may be made to pay double rent

18. In all cases of tenancy mentioned in this law, if the tenant, after notice, fail to quit at the end of the term, or at the period when he shall begin as aforesaid to be holding over, such tenant, his executors or administrators, may, at the election of the lessor, his heirs, executors or administrators or assigns, be held as a tenant and bound to pay double the rent to which the said tenancy was subject, and payable and recoverable in all respects and to every effect as if, by the original agreement or the understanding as to such tenancy, said double rent were the reserved rent of the demised premises, according to the terms and conditions of payment of such originally reserved rent.

Ibid, sec. 900. Right of appeal.

19. An appeal may be prosecuted from any judgment of a justice of the peace rendered under the provisions of this law, to the Baltimore City Court, in the manner and under the

rules prescribed in cases within the ordinary jurisdiction of justices of the peace; the tenant, or his executors or administrators, in order to stay any execution of the judgment against them, giving on such appeals, bond, with security, with condition to prosecute the appeal with effect, and to answer to the landlord, his executors and administrators, all costs and damages mentioned in the judgment, and such as shall be further incurred and sustained by reason of said appeal and the delay thence arising.

Ibid, sec. 901. Not removable except by appeal.

20. Such cases shall not be removable to the Baltimore City Court, at any stage thereof, save by and upon appeal as aforesaid.

Ibid, sec. 902. Proceedings not to be reversed for form.

21. No proceedings to dispossess a tenant holding over, had before any justice of the peace and removed by appeal to the Baltimore City Court, shall by such court be reversed or set aside for matter of form; and any case thus removed by appeal, if the proceedings thereunder shall be set aside or appear to be substantially defective, shall be proceeded with in said court in the same manner and to the same effect, upon the claim and complaint and merits, and upon evidence to be adduced therein, as it was or might have been competent to said justice of the peace to have proceeded therewith.

Ibid, sec. 903. Appeal to be tried at first term.

22. Every such appeal shall be tried and finally determined and proceeded with at the first term to which such case shall be removed to the said court, unless for cause shown upon affidavit the court shall otherwise order.

Ibid, sec. 904. Heirs, executors and assigns to have benefit of.

23. The provisions of the preceding sections of this article, relating to tenants holding over, shall extend to the heirs, executors and assigns of lessors and reversioners, and to the executors and all persons holding under tenants, and to all cases where there are two or more tenants, in which case each tenant shall be entitled to the notices and the benefit of each condition contained in the preceding sections.

Ibid, sec. 905. Witnesses not attending may be attached.

24. The justice has full power to enforce the attendance by attachment of the jurors who may be summoned in any proceeding under the general law in relation to tenants holding over, or under the preceding sections relating thereto.

ARTICLE XLVII.

THEATRICAL EXHIBITIONS.

STATUTES.

1. Women and girls not to be employed as waiters in theatres or places of amusement.
2. Penalty for non-compliance.

ORDINANCES.

1. Penalty for indecent exhibitions.
2. Penalty for sparring exhibitions.

STATUTES.

1864, c. 399, s. 2, Women and girls not to be employed as waiters in theatres or places of amusement.

1. It shall not be lawful for any proprietor, lessee, or manager of any theatre, museum, or other place of amusement, to employ women or girls as waiters, or to permit them to act in such theatre or place of amusement, or among the audience or frequenters of such theatre or place of amusement, as waiters, or for the purpose, or under the pretence of selling, serving, receiving orders or pay for spirituous or malt liquors, wines, lager beer, or any other refreshments or merchandize.

Ibid, s. 3. Penalty for non compliance

2. Any person violating the provisions of the preceding section, shall be deemed guilty of a misdemeanor, and on convic-

tion thereof in the Criminal Court of Baltimore, shall be sentenced to pay a fine of not less than one hundred nor more than one thousand dollars, or to imprisonment in jail not less than one month nor more than six months, or to both fine and imprisonment, at the discretion of the court, and to forfeiture of license; one-half the fine to be paid to the informer and the other half to the State.

ORDINANCES.

1. Every person who shall within the city of Baltimore act, exhibit, show or perform in, or cause to be acted, exhibited, shown or performed, or be in any manner concerned in the acting, exhibition, showing or performance of any indecent or blasphemous play, farce, opera, public exhibition, show or entertainment or performance whatsoever, or of any indecent or blasphemous part of any play, farce, opera, public exhibition, show, entertainment or performance whatsoever, shall forfeit and pay for every such offence the sum of twenty dollars. [1]

No. 37, s. 5. R. O. Penalty for indecent exhibitions.

2. Every person who shall within the city of Baltimore, give or perform in, or be in any manner concerned in any public sparring exhibition, shall forfeit and pay for every such offence the sum of twenty dollars.

No. 33, s. 16, R. O. Penalty for sparring exhibitions.

[1] See p. 460, and Licenses, *ante*.

ARTICLE XLVIII.

VAGRANTS.

STATUTES.

1. Warrant to arrest, by whom issued: when returnable.
2. Who deemed vagrants.
3. Upon proof of vagrancy to be sent to almshouse, &c.
4. May be sent to House of Refuge.
5. Officers to detain.
6. To compel work.
7. Terms of confinement.
8. Officers to make rules and regulations.
9. Guardian of minor to be summoned.
10. Minor may be bound by judge or justice.
11. Who deemed minors.
12. Orphans' Court to have jurisdiction in case of minors.
13. When cases to be tried in Criminal Court.
14. If jury trial demanded, justice may certify case to Criminal Court: case to be there tried.
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HOME OF THE FRIENDLESS.

16. When and what female children may be sent to Home: by whom to be sent.
17. To remain in care of Home.
18. Managers may bind.
19. Indentures, how executed and recorded.
20. Powers of managers.
21. Powers of constables, police, &c.

CHILDRENS' AID SOCIETY.

22. How vagrant minors may be taken care of, and who authorized to commit, &c.: powers of society: regulations.

ORDINANCES.

1. Jail.
2. Places of reception for lost children.
3. Appropriation.
4. Register to be kept.
5. Where children not claimed to be sent.

STATUTES.

P. L. L. art. 4, sec. 907.

Warrant to arrest.

By whom issued.

1. The judge of the Criminal Court of Baltimore, or any justice of the peace of the city of Baltimore, upon information that any person in said city is a pauper, an habitual beggar, a vagrant, a vagabond or disorderly person, shall issue a warrant or order, to be directed to the sheriff or any constable or police officer of said city, commanding him to bring the person against whom the information is given, before said court

or said justice on a day to be named therein, not more than one week from the date of the warrant, to answer to the said charge. When returnable.

2. Every person who has no visible means of maintainance from property or personal labor, or is not permanently supported by his or her friends or relatives, and lives idle without employment, shall be deemed a pauper; and every person who habitually wanders about and begs in the streets, or from house to house, or sits, stands or takes a position in any place and begs from passers-by, either by words or gestures, shall be deemed an habitual beggar; and every person who wanders about and lodges in out-houses, market-places, or other public buildings or places, or in the open air, and has no permanent place of abode, or visible means of maintenance, shall be deemed a vagrant; and every person who leads a dissolute and disorderly course of life, and cannot give an account of the means by which he procures a livelihood, and every fortune teller or common gambler, shall be deemed a vagabond or disorderly person. Ibid, sec. 908. Who deemed vagrants.

3. The said court or said justice, upon proof that any person is a pauper, an habitual beggar, a vagrant, a vagabond or disorderly person as aforesaid, shall send such person to the almshouse for said city, or to such other suitable place as may be provided for such purpose by the mayor and city council of Baltimore. Ibid, sec. 909. Upon proof of vagrancy, to be sent to almshouse, &c.

4. Whenever any house of refuge, house of correction, work-house or other house, building or place shall be provided by the mayor and city council of Baltimore, to which persons convicted under this law may be sent, the said court or said justice may send them to any such house, building or place, if the judge of said court or said justice consider it to be a more suitable place for the purpose than the almshouse. Ibid, sec. 910. May be sent to house of refuge.

5. The trustees of the almshouse, and the officers of the other places to which persons convicted under the two pre- Ibid, sec. 911. Officers to detain.

ceding sections may be sent, shall keep them during the time for which they are to be kept, so that they cannot escape from said place.

Ibid. sec. 912. To compel to work.

6. The said trustees and other officers shall put such of said persons so convicted as are able to work, to the work which they are respectively best able to do.

Ibid, sec. 913. Terms of confinement.

7. The time for which any person shall be sent to the almshouse or other place as aforesaid shall not be less than one week nor more than two months, for the first occasion; and not less than one month nor more than six months for the second or any subsequent occasion.

Ibid, sec. 914. Officers to make rules and regulations.

8. The trustees of the almshouse and managers of the house of refuge, and officers of the other places to which persons may be sent as aforesaid, shall have the right to make all proper rules and regulations for the purpose of carrying out the aforesaid provisions.

Ibid, sec, 915. Guardian of minor to be summoned.

9. Whenever any minor shall be brought before the judge or justice as aforesaid, the parents or guardians of such minor, if they be resident within the city of Baltimore, and their names and place of residence be made known to such judge or justice, shall be summoned to show cause, if any they have, why such minor should not be sent to the almshouse or other suitable place, or be otherwise punished according to law.[1]

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[1] The Court of Appeals, 1869, in *Roth* v. *House of Refuge*, say: in regard to the power of a justice of the peace to commit, and of the managers of the House of Refuge to detain minors, charged as and proved to be persons of incorrigible or vicious conduct, so that his or her control is beyond the power of parent, guardian or next friend, that they are clear in the opinion that the power conferred upon the justice of the peace, as also that conferred upon the managers of the House of Refuge, by the 18th section of article 78 of the Code of Public General Laws, (sec. 18, p. 337, *ante*,) is in no wise in conflict with the Declaration of Rights, or the Constitution of this State: and that they fully concur in the reason and judgment of the Supreme Court of Pennsylvania in disposing of a similar question, in the case of *Ex parte* Crouse, 4 Whart. 9.

10. The said judge or justice shall, if a suitable master or mistress can be found, and he judges it best for the minor, bind such minor an apprentice to some useful art, trade or occupation, in the same manner and on the same conditions as apprentices may now be bouud by the laws of this State. Ibid, sec. 916. Minor may be bound by judge or justice.

11. Every unmarried male under twenty-one years of age, and unmarried female under eighteen years of age, shall be considered minors within the meaning of the preceding section. Ibid, sec. 917. Who deemed minors.

12. The Orphans' Court of Baltimore city shall have concurrent jurisdiction over all cases of minors under the preceding section, and exercise all the powers in relation to them which are hereinbefore granted to the Criminal Court and to justices of the peace of said city. Ibid, sec. 918. Orphans' Court to have jurisdiction in case of minors.

13. The Criminal Court of Baltimore shall try all cases which may be brought before it in relation to vagrants and beggars, in the same manner and at the same time as cases for assault and battery are now tried by said court; provided, that the trial shall be by jury, if demanded by the party charged. Ibid, sec. 919. When cases to be tried in Criminal Court. Proviso.

14. If any case which may be brought before a justice of the peace, or before the Orphans' Court, the party charged shall demand a jury trial, the said justice or said court shall certify said case to the Criminal Court of Baltimore, to be proceeded with and tried by said court, in the same manner as if the case had been originally brought before said court. Ibid, sec. 920. If jury trial demanded, Orphans' Court or justice may certify case to Criminal Court: case to be there tried.

15. The justice of the peace, and the clerk of the Criminal Court, and register of wills of the Orphans' Court aforesaid, respectively, shall receive the sum of twenty-five cents for issuing every warrant, and fifty cents for making out every commitment or indenture of apprenticeship of such vagrants or beggars, and the constable, sheriff or police officer for serving said warrant, and bringing the person charged before either of said courts, or before said justice, shall receive the sum of Ibid, sec. 921. Costs, what and how paid.

fifty cents, and for carrying any person committed to the place of commitment, the sum of fifty cents, which several sums shall be paid as other costs in criminal cases are now paid, but either of said courts, or said justice, may at discretion adjudge that the said costs shall be paid by the informer in cases where the person charged is acquitted.

HOME OF THE FRIENDLESS.

Ibid, sec. 922; 1858, c. 429. When and what female children may be sent to Home. By whom to be sent.

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, female children 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.[1]

Ibid, sec. 923. To remain in care of Home.

17. The children thus committed to the care of said corporation, shall remain under the care of the corporation, and of the managers thereof, and shall be obedient to the rules, regulation and discipline as apprentices, and be subject to all laws concerning the duties and liabilities of apprentices.

Ibid, sec. 924. 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 of age, or any shorter period, and may bind them out for a time, not to exceed the age of eighteen years, as apprentices to learn any trade or business, or to learn to be useful in housewifery, or may, under terms proper in the 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 children, shall not be limited to places within this State.

Ibid, sec. 925. Indentures, how executed and recorded.

19. All instruments binding or placing out said children, shall be in writing, signed by the president and at least two

[1] The Home of the Friendless was incorporated under act of 1852, c. 237.

managers of said corporation, and by the persons taking the children as apprentices or otherwise, and shall be acknowledged by the persons signing the same before a justice of the peace for Baltimore city, and within six months from the date thereof recorded in the office of the register of wills of said city.

Ibid, sec. 926. Powers of managers.

20. If any parent or guardian, or any judge of the Orphans' Court of Baltimore city, or any justice of the peace for said city, shall place under the care and control of the Home of the Friendless any female child 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 as being illegitimate or children of persons out of this 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.

Ibid, sec. 927. Powers of constables, police, &c.

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 female child of the description mentioned in the preceding section, to be dealt with as therein provided.

CHILDREN'S AID SOCIETY.

1864, c. 296. How vagrant minors may be taken care of and who authorized to commit, &c.

22. The judges of the Orphans' Court of Baltimore city, the judge of the Criminal Court, any justice of the peace, the trustees of the poor and the ward managers of the poor and any police officer or constable of said city, are hereby authorized and empowered to deal with and commit to the president and board of managers of the Childrens' Aid Society of Baltimore, any minor, whether male or female, in the same manner and under the same circumstances, as they are authorized to deal with and commit female minors to the care and charge of the Home of the Friendless, under this article,

Powers of Children's Aid Society.

and the president and board of managers of said Childrens' Aid Society of Baltimore are hereby vested in regard to all minors, male or female, with all the rights, powers and authority which the Home of the Friendless, or the president and managers thereof by this article are vested with in regard to female minors, and are to observe the same forms and

Regulations.

regulations in regard to the binding out, adopting or otherwise disposing of minors, male and female, committed to them by virtue of this section, except that the president and board of managers of the Childrens' Aid Society may bind out or dispose of male minors committed to them until twenty-one years of age.[1]

ORDINANCES.

No. 46, R. O. Jail.

1. Persons convicted as vagrants under the sections (1 to 15 inclusive) of this article, relating to vagrants, may be sent to the jail of Baltimore city, if the judge or justice before whom such conviction shall be had, shall consider it to be a more suitable place for the purpose than the almshouse.

No. 52, s. 1, R. O. Places of reception for lost children.

2. The mayor is hereby authorized to contract with the president and managers of the general dispensary for the reception and maintenance of all lost children, for the term of three days from the time that any such lost children may be placed under their care by virtue of this ordinance.

Ibid, s. 2. Appropriation.

3. The sum of seventy-five dollars is hereby appropriated out of any unappropriated money in the treasury, to defray the expenses to be incurred in the preservation and maintenance of lost children, for each and every year, during the continuance of this ordinance; and the register of the city is hereby authorized and directed to pay the same in quarterly payments, to the president and managers aforesaid, agreeably to the contract hereinbefore authorized to be made.

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[1] 1866, c. 156, s. 8, enacted: that the provisions of this article, relating to Vagrants, shall be applicable throughout the State, to the institution called the Maryland Industrial School for Girls, as far as the special object of it will admit.

4. It shall be the duty of the president and managers aforesaid, to keep a register of all lost children, (designating their names and ages, as far as practicable,) which may be committed to their care, and to report the same to the mayor and city council annually in the month of January. Ibid, s. 3. Register to be kept.

5. In every case where children as above provided for, shall not be claimed by their parents or guardians, it shall be the duty of the president and managers aforesaid, to give notice of the same to the mayor, who is hereby authorized to have the child or children, so reported, conveyed to the Home of the Friendless or Children's Aid Society, there to be provided for as other children under the charge of those establishments. Ibid, s. 4. Where children not claimed to be sent.

ARTICLE XLIX.

WATER.

STATUTES.

1. Power to mayor and city council to purchase, &c. lands, water, &c.: to introduce water into city.
2. Agreement with owners of land, &c.
3. Power to condemn: warrant from justice of the peace to sheriff: jury: notice.
4. Jury.
5. Power of jury.
6. Oath of jurors.
7. Inquisition.
8. Another inquisition.
9. What inquisition to contain: effect of same.
10. Jury.
11. Compensation to jurors, sheriff, &c.: how paid.
12. Corporation to issue certificates of stock: water rates: how collected: watchmen and police force: fines and penalties.
13. Power to purchase right of companies.
14. Dam.
15. Polluting the water in Swann lake, &c.: penalty.
16. Erecting privy, &c. over lake, &c.: penalty.
17. Injuring dam: penalty.
18. Fines and forfeitures, how recoverable.
19. Action of damages.

PUMPS.

20. Power to erect.

ORDINANCES.

WATER BOARD.

1. Six commissioners: president: secretary: quorum: vacancies: rules and regulations, &c.: appointment of police and watchmen.
2. Meetings.
3. Title papers: books: monthly statement: report to council: receipts and disbursements.
4. Officers not to be interested in contracts, &c.: when contracts void.
5. Water department: officers: salaries: bonds.
6. The water registrar: duties: water rates: books: collectors: depositing funds.
7. Accounts with registrar: abatements.
8. Registrar to make monthly statement: water takers: receipts and expenditures.
9. The water engineer: duties: record of water takers, &c.
10. To make out bills: to employ labor: monthly and annual statements: to hold no other public office.
11. Water rates: when payable: discounts: how bills collected.
12. Water rates.
13. When abatements made in registrar's office.
14. When water may be stopped: fine for permittting others to use water: for tapping pipe, &c.: proviso.
15. Officers to report to registrar.
16. Rates printed on bills.

WORKS.

17. Permission to lay pipes: streets to be restored to their former condition.
18. Streets, when dug up, how to be repaired: rubbish, &c., when to be removed.
19. Defective pipes to be repaired.
20. What pipes: notice: duty of water board relative to defective pipes: penalty for refusing to allow board to repair defective pipes.
21. Pavements taken up, when to be repaved.
22. Pavements not to be broken up without permission.
23. Repairing regulated.
24. Paving, &c., streets: bricks to mark water stops: penalty.
25. Water stops: penalty.
26. Unlawful to erect hydrants that waste in the earth: penalty.
27. Hydrants regulated: penalty.
28. Penalty for allowing water to flow from hydrants.
29. Penalty for injuring fire plugs or opening the same.
30. Penalty for injuring water works.
31. New hydrants, principle to be approved by board: penalty.
32. Board to erect fire plugs: proviso.
33. Appropriation.
34. Connection not to be made or water turned on without consent of registrar.
35. Penalty for refusing to allow registrar to visit premises.
36. Fines and penalties, how recovered.
37. Police to report violations of ordinance, &c.

DRUID LAKE, &C.

38. Lakes, &c., in Druid Hill Park: storage of water.
39. Power of water board: proviso.

PUMPS.

40. Application for erection of pumps: duty of water engineer: apportionment: duty of water registrar.
41. Water registrar to furnish each person assessed for pumps, bills for same: enforcing payment.
42. Pumps out of limits of direct taxation.
43. Appeal to water board: referees.
44. Artesian wells: proviso.
45. Repairs of wells and pumps: proviso: report to water board.

46. Water engineer to examine pumps.
47. Persons breaking, defacing, &c., pumps, fire plugs, &c.: penalty.
48. Water board to receive pumps erected by individuals: proviso.
49. Water engineer to make assessment and return same to registrar, &c.: provisos: appropriation.
50. Removal of pumps.
51. Wells to be covered.
52. Places to be marked.
53. Penalty for removing marks.
54. Pipes, &c., not to be introduced into wells: penalty.
55. Pumps and hydrants not to be obstructed: penalty.
56. Pumps, fountains, &c., protected from nuisances: penalty.

STATUTES.

P. L. L. art. 4 sec. 928, 1853, c. 376.

Power to mayor and city council to purchase &c., lands, water, &c., to introduce water into city.

1. The mayor and city council of Baltimore may, from time to time, contract for, purchase, lease and hold to them and their successors, in fee simple, or for a term of years, any land, real estate, spring, brook, water and water course, and also the right to use and occupy forever or for a term of years, any land, real estate, spring, brook, water or water course which they may conceive expedient and necessary for the purpose of conveying water into the said city, for the use of the said city, and for the health and convenience of the inhabitants thereof, and also the right to enter or pass through from time to time, as occasion may require, and to use and occupy the said lands through which they may deem it necessary to convey the said water, and they are hereby invested with all the rights and powers necessary for the introduction of water into said city, and to enact and pass all ordinances from time to time which shall be deemed necessary and proper to exercise the powers and effect the objects above specified.[1]

Ibid, sec. 929.

Agreement with owners of land, &c.

2. The mayor and city council of Baltimore, or any agent by them authorized, may agree with the owner or owners of any land, real estate, spring, brook, water or water course as aforesaid, earth, timber, stone or other materials which the said mayor and city council may conceive expedient or neces-

[1] The act of 1853, c. 376, (entitled an act for supplying the city of Baltimore with pure water,) considered in *Graff* v. *Mayor, &c.*, 10 Md. 544. *Kane* v. *Mayor, &c.*, 15 Md. 240. See Water Stock, under Stocks, &c., *ante*.

sary to purchase and hold for the purpose of introducing water into the said city.

Ibid, sec. 930. Power to condemn.

3. If they cannot agree, or if there be any incapacity or disability to contract with the owner or owners of such land or real estate, spring, brook, water or water course as aforesaid, earth, timber, stone or other materials, or with the owner or owners of such lands through which the said mayor and city council may find it necessary to have a right of entry and passage, for the purpose of conveying the said water into the said city, or if such owner or owners shall be absent, out of the State, or unknown, it shall be lawful, on the application of the mayor and city council, for any justice of the peace of the county in which such lands, earth or other property or materials as aforesaid are situate, to issue his warrant to the sheriff of said county, commanding him to summon from the said county a jury of twenty freeholders, inhabitants of said county, not related to the owner or owners or persons interested, as aforesaid, in the said real estate or other property, to meet on the premises which is to be valued, on some certain day to be named in said warrant, of which said warrant and the day therein named for the meeting of the jury, twenty days' notice shall be given previous to such day by the mayor and city council, to every owner or person interested as aforesaid, or if any owner be an infant or lunatic, or feme covert, to his or her guardian or her husband, or in either case, left at his or her place of abode, or if out of the State or unknown, such notice shall be published not less than eight weeks successively in some one or more of the daily newspapers of Baltimore city, and in one or more of the newspapers of the county in which such property may be located, if any newspaper be published in such county.

Warrant from justice of the peace to sheriff.

Jury.

Notice.

Ibid, sec. 931. Jury.

4. From the list of jurors so returned and attending, the person, the condemnation of whose property may be desired, may strike four, and the said mayor and city council strike four, so that the number of jurors be reduced to twelve; and in case either party shall neglect or refuse to strike off the

names of jurors, then it shall be the duty of the sheriff or his deputy, who shall attend as hereinafter directed, to strike off jurors for the party so refusing or neglecting, so that the number of jurors be reduced to twelve, as aforesaid.

Ibid, sec. 932. Power of jury.

5. The jurors so remaining shall inquire into, assess and ascertain the sum or sums of money to be paid by the said mayor and city council of Baltimore, for the land, spring, brook, water rights or other property which they may deem necessary to purchase and hold or use for the purpose aforesaid.

Ibid, sec. 933. Oath to jurors.

6. Before the said jury act as such, the said sheriff or his deputy shall administer to each of them an oath, that he will justly and impartially value the damages which the owners or parties holding an interest therein will sustain by the use and occupation of said property by the mayor and city council of Baltimore.

Ibid, sec. 934. Inquisition.

7. The said jury shall reduce their inquisition to writing, and shall sign and seal the same, and it shall then be returned by the said sheriff to the clerk of the Circuit Court of said county, and be by such clerk filed in his office, and shall be confirmed by said court at its next session, if no sufficient cause to the contrary be shown; and when confirmed shall be recorded by the said clerk at the expense of the mayor and city council of Baltimore.

Ibid, sec. 935. Another inquisition.

8. If not confirmed, the said court may direct another inquisition in the manner above described.

Ibid, sec. 936. What inquisition to contain.

9. The inquisition shall describe the property taken or the bounds of the land condemned, and the quantity or duration of the interest in the same, valued to the mayor and city council of Baltimore, and such valuation, when paid or tendered to the owner or owners of said property, or his or their legal representatives, shall entitle the said mayor and city council of Baltimore to the use, estate and interest in the same thus valued, as fully as if it had been conveyed by the

Effect of same.

owner or owners of the same; and the valuation, if not received when tendered, may at any time thereafter be received from the mayor and city council of Baltimore, without interest, by the said owner or owners, or his or their legal representative or representatives.

Ibid, sec. 937. Jury.

10. If the twenty jurors summoned as aforesaid shall not appear at the time and place appointed as aforesaid, the sheriff or his deputy, as the case may be, shall forthwith summon other freeholders of the county from the bystanders or others qualified as aforesaid, to make up the said jury to the number of twelve.

Ibid, sec. 938. Compensation to jurors, sheriff, &c.

11. The jurors so summoned and attending shall be allowed the same compensation as is allowed to the jurors in the Circuit Court of the county; and the sheriff shall be allowed similar fees as are by law allowed for the summoning jurors to attend the Circuit Court of the county, and also a per diem of two dollars for every day he or his deputy shall be in attendance upon an inquisition; and such expenses shall be paid by the said mayor and city council of Baltimore, except in cases of objections to the confirmation of inquisitions before the Circuit Court, when the costs in said court may be awarded in the discretion of the court.

How paid.

1868, c. 467. Corporation to issue certificates of stock.

12. For the purpose of defraying all the expenses and costs of said lands, waters and water rights as shall have been taken for the purposes aforesaid, and of constructing all works necessary to the accomplishment of said purposes, and all expenses incident thereto, the said mayor and city council of Baltimore shall have authority in the name of the city to issue certificates of debt to be denominated on the face Baltimore water stock, to an amount not exceeding four millions and five hundred thousand 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

hereby authorized and empowered to assess rates for the supply and use of water at any point in Baltimore city and county,[1] and the mayor and city council are hereby authorized to enforce payment for the use of water, and other expenses incurred in the introduction of water from the water mains, according to the rates established by the said mayor and city council, said payments to be enforced by the same process that city or State taxes are collected, or they may be collected by process before a justice of the peace, or in any of the courts of the city of Baltimore having jurisdiction in such cases; and the said mayor and city council are hereby 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 appendages, 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 article Fines and Forfeitures.

Water rates.

How collected.

Watchmen and police force.

Fines and penalties.

13. The mayor and city council of Baltimore are hereby authorized to purchase all the property, estates, rights and privileges of any chartered company authorized to introduce, or which may hereafter be authorized to introduce, water into said city, upon such terms as may be agreed upon by the mayor and city council of Baltimore and such corporation or corporations, in the manner prescribed in their respective charters, or in the absence of such provisions as shall be agreed upon by the said mayor and city council of Baltimore

P. L. L., art. 4, sec. 940.

Power to purchase.

Right of companies.

[1] The above act repealed 1866, c. 38, and is identical therewith, except that after the words: "at any point in Baltimore city and county," the clause, (in the act of 1866, c. 38, and also in the act of 1862, c. 83, which the act of 1866 repealed,) viz: "to assess a water tax on houses and other buildings in said city within three hundred feet of the line of water pipes; provided, they shall no assess a water tax on any building where the water is not taken on the premises for a sum greater than five dollars, nor less than one dollar per annum," is omitted.

and such corporation or corporations; and such corporation is hereby authorized to execute a conveyance or conveyances to the mayor and city council of Baltimore, of all the franchises and property of said corporation; and all such rights, privileges and franchises shall be vested in the mayor and city council of Baltimore, to be held, exercised and enjoyed by the said mayor and city council of Baltimore, as fully in every respect as might or could have been done by any such corporation or corporations under their respective charters.[1]

Ibid, sec. 941. Dam.

14. It shall not be lawful in making or constructing any dam at Raven's Rocks, to submerge any land to the distance of more than eighty feet from the present banks of the Gunpowder falls, or of its tributaries, unless with the consent of the owner of the land that shall be submerged.

1862, c. 240, s. 1. Polluting the water in Swann lake, &c.

15. If any person shall wilfully pollute the water in the lake, hereafter to be known as Swann lake, which was formed by the erection of a dam across Jones' falls, at or near the Relay house, on the Northern Central railway, or any dam, reservoir, line of conduit, water-pipe, gate-house, or other work constructed or used for suplying the city of Baltimore with water, by swimming, bathing or washing therein, or by washing or causing to be washed, any clothes, the skin of any dead animal, or any impure, fœtid or noxious animal or vegetable matter in Swann lake, or any 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 as to pollute the water therein, or who shall throw or cause to be thrown, any impure, fœtid or obnoxious animal or vegetable matter in said Swann lake, or in any dam, reservoir, line of conduit, water pipe, gate-house, or so near as to pollute the water in any of the works used in supplying the city of Baltimore with water, 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.

[1] See Water Stock, under Stocks, &c., *ante*.

16. If any person shall erect, or cause to be erected, any privy, hog pen, or other thing, over or so near Swann lake, or any dam of the said works, as to pollute 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 due notice to remove the same shall have been given. Ibid, s. 2. Erecting privy, &c., over lake, &c. Penalty.

17. If any person shall injure or cause to be injured, defaced or destroyed, any dam, reservoir, line of conduit, water-pipe, gate-house, stop cock, or other thing, used for supplying the city of Baltimore with water, the person so offending shall forfeit and pay a sum not less than five, nor more than fifty dollars for each offence. Ibid, s. 3. Injuring dam, &c. Penalty.

18. All fines and forfeitures imposed by this act, shall be recoverable by warrant, before any justice of the peace, in and for the city of Baltimore, or in and for Baltimore county, according to the respective jurisdiction under which any of the offences herein set forth may be committed; one-half to the informer and the other half to the mayor and city council of Baltimore. Ibid, s. 4. Fines and forfeitures, how recoverable.

19. This act shall not be construed to exempt any person or persons who may have been fined for a violation thereof, or who may be charged with a violation thereof, from an action of damages for any injury or destruction of any part of the works used in supplying the city of Baltimore with water, in any suit for damages on account of said injury, brought by the mayor and city council of Baltimore. Ibid, s. 5. Action of damages.

PUMPS.

20. The mayor and city council have power to erect and regulate pumps in the streets, lanes and alleys. P. L. L., art. 4, sec. 823. Pumps.

ORDINANCES.

WATER BOARD.

No. 10, s. 1, Mar. 27, '62; No. 83, Oct. 3, '66.

Six commissioners.

1. There shall be appointed biennially, in the month of March, as other city officers are appointed, a board of six commissioners, who shall be residents of the city of Baltimore, who, with the mayor, shall be styled the water board of the city of Baltimore; said commissioners to be men of undoubted character, and selected with a view to skill and efficiency. The mayor shall be the president of said board, and preside at all meetings which may be held to deliberate upon the affairs of the water department. Any four members of said board shall constitute a quorum for the transaction of business. The board shall have authority to appoint a secretary, whose duty it shall be to keep a record of the proceedings and perform such duties as may be assigned to him by the board. They shall have authority to fill any vacancy or vacancies that may occur in their body, by reason of the death, resignation or removal from the city of any of its members during the recess of the city council, and in the absence of the mayor, to appoint a president pro tempore; to make and pass all rules and regulations for the government of the board, the laying and tapping of pipes, or for the protection and preservation of the said pipes, or other property and appurtenances of the water works; and to affix penalties, and to enforce the same for any violation of their rules and regulations; to appoint or secure the appointment of such police force and watchmen as may be necessary for the protection, care and preservation, and to prevent obstruction or injury to the water works and their appendages, and to adopt all necessary regulations to preserve the purity of the water, and to enact and enforce such rules, regulations and penalties as they may deem necessary, in accordance with section 12 Statutes (hereinbefore) of this article.

President.

Secretary.

Quorum.

Vacancies.

Rules and regulations.

Appointment of police and watchmen.

Ibid, s. 1. Meetings.

2. It shall be the duty of said board to meet once in every month, and oftener, if required, to mature and decide upon all plans in reference to the general policy, details and manage-

ment of all other matters touching the city's interest in said water department, consistent with existing laws.

3. The said water board shall arrange and keep all the title papers, and copy the same in a book to be kept in the office. The board shall provide suitable books, in which the general accounts shall be regularly posted, showing an aggregate of all the transactions of the department; and a statement of said general accounts shall be made at each monthly meeting of the board. And on or before the twenty-fifth day of January, annually, the board shall present to the city council a report containing a full statement of the condition of the water works, and of the lands and other property connected therewith, with a statement of the general accounts, and of all receipts and expenditures for the preceding year, together with any information or suggestions the commissioners may deem important. And they shall at the same time transmit to the city council the annual report of the engineer and registrar.

Ibid, s. 2.
Title papers.
Books.
Monthly statement.
Report to council.
Receipts and disbursements.
Report of engineer and registrar.

4. No member of the water board, and no person appointed to office under this ordinance, shall be interested, directly or indirectly, in any contract, bargain, sale or agreement in relation to the water works, or any matter or thing connected therewith, wherein the city is interested, without an express vote of the city council; and any and all contracts, bargains, sales or agreements made in violation of this section, shall be utterly void as to the city, and said office to be vacated.

Ibid, s. 3.
Officers not to be interested in contracts, &c.
When contracts void.

5. The said water board shall have authority to appoint a water engineer, 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. The salary of the water engineer shall be at the rate of twenty-five hundred dollars per annum; and the salary of the water registrar shall be at the rate of eighteen hundred dollars per annum; the salaries and duties of all other appointees shall be determined upon by the water

Ibid, s. 4; No. 62, May 9, '64.
Officers of water department.
Salaries.

board, and they may be dismissed at any time by the board.

Bonds. The board shall take bonds from any or all employees, to be approved by the mayor, in such penal sum as may be required.

Ibid, s. 5. The water registrar.

6. There shall be appointed annually in the month of December, by the said water board, a water registrar, who shall hold office until his successor is appointed. He shall, under

Duties. the direction of the board, with the assistance of the collectors, assess the water rates on all buildings where the rates

Water rates. are established by law; and with the assistance of the clerks

Books. in his department, shall keep suitable books in which shall be entered all transactions of his department, the names of all persons who take the water, the kind of building, the name and number of the street, the number of taps, and the amount charged, the names of the owners of all buildings, with the street and number of the building, and the front feet. He

Bills. shall in due time prepare bills for rents and other accounts

Collectors. due the water board, and require the collectors to deliver said bills and accounts promptly; and he shall supervise all books and accounts the board may direct to be kept in his office. All funds received from every source on account of the water

Depositing funds. board, shall be paid to the water registrar, and the same shall be deposited daily as the ordinances of the city may direct.[1]

Ibid, s. 6. Account with registrar.

7. The water board shall keep an account with the water registrar, in which he shall be charged with the water rents and other indebtedness due, the number of water takers, and the amount paid. All money collected and paid over by the registrar shall be credited on said account, and all abatements or deductions proposed shall be submitted to the board, and

Abatements. if approved by the board, the abatements may be made, and the registrar's account credited with the amount.

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[1] See p. 758, *ante*, as to payments to city register by water registrar, and duty of city register.

8. The water registrar shall, on or before the first Monday in each and every month, make a detailed statement for the previous month, of the operations of his department, to the board, and on or before the first Monday of January, annually, shall present to the water board a report, containing a statement of water takers, the number of cases where the water has been cut off, the number and amount of abatements, the new supplies made, the receipts and expenditures of the water board, and such other matters as he may deem expedient. Ibid, s. 7. Registrar to make statement monthly. Water takers. Receipts and expenditures.

9. The water board shall appoint, annually, in the month of December, a water engineer, who shall hold his office until a successor is appointed. He shall take charge of all the works connected with or in any way appertaining to the water department, and have the general out-door arrangement of all matters relating to the water works and the appurtenances thereto, as the water board may from time to time direct. He shall make all connections of service pipe extending from the water mains to the outside of any building where the water is taken; and no lead pipe shall be laid connecting with the main pipe less than thirty-six inches beneath the surface; and the quality and size of all service pipe used by the engineer must be approved by the water board. He shall keep a record in his office, showing the number of water-takers, their location, and the prices charged to each, and a record showing the streets, lanes, alleys, &c., wherever the water pipes are or may hereafter be laid, the size of the pipes, the openings in the mains, the number and position of fire plugs, and of all new supplies, and all cases where the supply has been stopped off, and the reasons for stopping off the water. And no pipe or main shall be tapped, opened or re-opened for a supply of water, unless it be done under the direction of the water engineer exclusively. Ibid, s. 8. Water engineer Duties. Record of water takers, &c. Pipes, &c.

10. He shall make out bills as soon as the work is done, for tapping, laying service pipe and other charges for new supplies, and all bills for materials sold by order of the board, and deliver said bills to the registrar for collection. And it Ibid s. 8. To make out bills.

shall be the duty of the said engineer, with the sanction of the water board, to employ such labor, and conduct such operations as may be needed from time to time; to report to the board at its monthly meeting, a detailed statement, showing the operations of his department for the preceding month, and annually, on the first Monday in January, a full statement of the work under his charge; the amount expended during the year, for what purpose, the quantity and value of materials on hand, and all such other information as may be required by the board. He shall be responsible to the board for the good condition of the works, and for the faithful performance of the duties of all persons employed on the water works, or in extending, repairing or removing water mains, and all other work in his department; and during the period for which he is appointed, he shall hold no other public office whatever.

To employ labor.

Monthly and annual statements.

To hold no other public office.

Ibid, s. 10; No. 62, May 9, '64. Water rates.

11. All charges for water rates shall be made for the current calendar year, and shall be due and payable yearly in advance, on the first day of January, in each and every year; and all bills for water rates charged by the year, if paid at the office of the water registrar on or before the first day of March, shall be entitled to a deduction of ten per cent.; if paid on or before the first day of April, eight per cent.; if paid on or before the first day of May, six per cent.; if paid on or before the first day of July, four per cent.; if paid on or before the first day of September, two per cent. No discount shall be made after the first day of September, and all bills not paid by the first day of October, shall be placed in the hands of collectors, and shall then be collected in the same manner and subject to the same costs as the city collector is or may be authorized to demand in collecting taxes overdue to the city, or they may be collected as other small debts are collected before a justice of the peace.

When payable.

Discounts.

How bills collected.

Ibid, s. 11; No. 41, May 23, '62. Water rates.

12. The following charges or rates for the use of hydrant water, shall be for one year as follows, viz:

Water rates.

For stores and warehouses not occupied as dwellings, 22 feet front and over	$10 00
For stores and warehouses not occupied as dwellings, 17 feet and less than 22 feet front	8 00
For stores and warehouses not occupied as dwellings, under 17 feet front	6 00
For a private family in a house over 22 feet front	14 00
For a private family in a house over 17 feet front and not over 22 feet front	12 00
For a private family in a house over 14 feet front and not over 17 feet front	9 00
For a private family in a house over 12 feet front and not over 14 feet front	7 50
For a private family in a house 12 feet front and under	5 00
For a house occupied by more than two families, for each additional family, $2 extra.	
For bath tubs for each house occupied by a private family	2 00
For attachments to hydrants for washing pavements, &c.	3 00
For bathing tubs for public hire or use, each	10 00
For water closets in private families, each house	2 00
For steam engines—each horse power, viz:	
Up to and not exceeding twenty	8 00
Each additional horse power over twenty	6 00
For horses, each	1 50
For carriages, each	1 50
For cows, when stabled, each	1 00

For taverns, refectories, livery stables, lager beer houses, boarding houses, barber shops, daguerreotype saloons and offices, and for the use of water in any form, the charges or rates may be prescribed by the water board, as they deem proper, and in the assessment of water rates on buildings of large front and comparatively small depth, not exceeding twenty-four feet, the water board are authorized to modify the assessment of water rates.

Ibid, s. 11. When abatements made at registrar's office.

13. No abatements from the above charges will be made, unless the property be reported at the office as vacant, and the supply having been stopped off for three months; all abatements must be made at the office of the water registrar; where parties have paid their bills in advance, the water board may direct the amount of the abatement to be returned; and no abatement will be made unless the parties show that they have applied at the registrar's office to have the water shut off.

Ibid, s. 11; No. 83, Oct. 3, '66. When water may be stopped

14. All bills in arrears may be deemed a sufficient reason for stopping the water until all arrears are paid; whenever the water is stopped off for non-payment of water rents, one dollar shall be paid to the water registrar before the supply is turned on again; the owners of property will in all cases be held responsible for the payment of water rates; all persons using the hydrant water without the knowledge of the engineer or registrar, and all persons permitting their neighbors not entitled, to use the water without a written permit, will be subject to a fine of not less than one dollar, nor more than three dollars, for each offence; and, in such cases, the registrar shall shut off the water from the premises of all such persons; and no person or persons will be permitted to introduce the hydrant water on his, her or their premises, without the authority of the water board, and in case of discovery, the water shall be stopped off; provided, that nothing herein contained shall be so construed as to prevent any citizen from furnishing water, in necessitous cases, in quantities not exceeding two gallons. Any person tapping or causing to be tapped any pipe belonging to the city, or any private pipe connecting with the city pipe, will be subject to a fine of twenty dollars; all fines to be collected as other fines and forfeitures are now collectable.

Owners responsible.

Fine for permitting others to use water.

Proviso.

Fine for tapping pipe, &c.

Ibid, s. 11. Officers to report to registrar.

15. And all the officers and employees of the water board are hereby directed to report at the water registrar's office, all cases coming to their knowledge, of persons using the hydrant water without authority, as provided in the preceding section.

16. The water board are hereby authorized and required to have printed on the back of each bill distributed to the water consumers, the tariff of rates upon which water is served to them, together with the terms, discounts, fines and penalties prescribed by this ordinance. Ibid, s. 14. Rates printed on bills.

WORKS.

17. The water board of the city of Baltimore shall have full power and authority to convey water under and along any of the streets, lanes and alleys of the city of Baltimore, and to lay a pipe or pipes in any of the said streets, lanes and alleys, for the purpose of conveying and distributing the said water; and the said pipes from time to time to renew and repair, and for that purpose to dig, break up and open all or any part of such street, lane or alley, and of the pavement or footways thereof, leaving at all times a sufficient passage way for carriages, horses and foot passengers, if the same will admit thereof, and restoring forthwith to their former condition all such streets, lanes and alleys, pavements and footways, as shall from time to time and at any time, be so dug, opened and taken up, and mending and repairing all injuries to said streets, lanes and alleys, pavements and footways, arising from their so digging, opening and taking up the same as aforesaid. No. 43, s. 1, R.O Permission to lay pipes. Streets to be restored to their former condition.

18. Whenever the water board, or any of their agents or workmen, shall take up any part of the pavement or dig up any part of the streets, lanes or alleys of the city of Baltimore, for the purpose of laying or repairing the pipes for conducting the water through the city, or into the houses or lots of the citizens, they shall proceed without delay to putting down or repairing the pipes, as the case may be, and immediately thereafter fill in the earth or otherwise secure the place so dug up from becoming a nuisance or endangering the persons riding or driving through the same, and shall also when the same is repaved, as hereafter provided, remove without Ibid, s. 2. Streets when dug up, how to be repaired.

Rubbish, &c., when to be removed.

delay the stone, earth, sand or rubbish remaining from the laying or repairing such pipes.

Ibid, s. 3. Defective pipes to be repaired.

19. As often as any of the said pipes shall prove defective, so as to cause the water to flow on the surface of the ground or pavement, it shall be the duty of the said board to have the same immediately repaired.

Ibid, s. 4. What pipes.

20. The pipes mentioned and referred to in the preceding section, are hereby declared to mean and be any pipes laid by the said board or in connection with the works under their care, under or along any street, lane or alley of the city, whether the same be under or along the space covered or designed to be covered with the foot pavement or not, and

Notice.

a notice of the fact, by any person whatsoever, left at the office of said board, shall be a sufficient notification. And

Duty of water board relative to defective pipes.

it shall be the duty of the said water board, whenever they shall be notified that any pipe or pipes laid by them or in connection with the works under their charge, within the limits of any private property in the said city are defective, so as to prevent or cause the water to flow upon the surface of the ground or pavement, to make immediate application to the owners or occupants of said property, should the occupant not be the owner thereof, for permission to send their workmen upon the premises to repair the same, and if any owner or occupant of any property, or agent of such owner, shall, upon such application, refuse permission to said board thus to repair defective pipes as aforesaid, or refusing the said permission, shall not immediately repair the same themselves, they shall be subject to a penalty of ten dollars for every day after such application until such repair is made and such pipes secured.

Penalty for refusing to allow board to repair defective pipes.

Ibid, s. 5. Pavements taken up—when to be repaved.

21. In all cases where the said board or any of their agents or workmen, shall take up the pavement for the purposes aforesaid, and shall not repave the same in a reasonable time at the discretion of the city commissioner, the said commissioner shall give notice to the said board to have the same

City commissioner.

immediately repaired; and if the board refuse or neglect to have it done, the city commissioner shall proceed to have it repaired at the expense of said water board.

Ibid, s. 6. Pavements not to be broken up without permission.

22. It shall not be lawful for any person or persons, company or corporation, to remove any of the stone or brick pavements of the city for the introduction of water pipes, without permission from the water board, and the replacing of said pavement to be under the superintendence of the city commissioner, at the expense of the party removing the same; and any person or persons, company or corporation, who shall violate this section, shall forfeit and pay a fine of twenty dollars, to be applied as provided in section 36. Penalty.

Ibid, s. 7. Repairing regulated.

23. In all instances where the pavement of any street, lane or alley which may have been heretofere or may hereafter be opened or dug up by said water board, has not, in the judgment of the city commissioner, been well and effectually repaved, the said water board being informed thereof in writing by the said commissioner, shall forthwith proceed well and effectually to repave the same, and the expenses thereof shall be chargeable to and paid by the said board.

No. 3, Feb. 5, '64. Paving, &c., streets.

24. Whenever it becomes necessary to pave, repave or repair any street, lane or alley in the city of Baltimore, it shall be the duty of the paver or contractors to distinctly mark by three bricks on edge, or iron box, all water stops of private water pipes leading from the city's main pipes to the property opposite to which the stop may be found. He or they so offending shall forfeit and pay for each and every neglect the sum of ten dollars, one-half to the informer, and the other half to the register for the use of the water department. Bricks to mark water stops. Penalty.

Ibid, s. 2. Water stops.

25. It shall be the duty of owners of property, plumbers, bricklayers or other person or persons in paving or repaving the side walks, yards or alleys, to distinctly mark by three bricks on edge, or iron box, the water stops that may be covered by said paving or repaving, under a penalty of ten

Penalty. dollars for each and every neglect of the same, one-half to the informer, the other half as provided in preceding section.

No. 50, April 5, '59. Unlawful to erect hydrants which waste in the earth.

26. It shall not be lawful for any person or persons to erect any hydrant which wastes in the earth, or from which the water in the pipe, between the valve and the nozzle, runs back into the ground when the lever is let down, nor any fixture of any kind by which the waste water from the pipes is discharged below the surface of the pavement; any person or pesons who shall violate this section, upon conviction thereof before any justice of the peace of the city, shall forfeit and pay the sum of twenty dollars, one-half to the informer and the other half as provided in preceding section.

Penalty.

No. 43, s. 8, R.O. Hydrants regulated.

27. All persons who may use the water from the hydrants under the charge of the water board, or any water company within this city, shall convey or cause to be conveyed all the surplus water from their respective hydrants by means of gutters, trunks or pipes, into the public streets or otherwise, in such manner as not to injure the public footways or the property of their neighbors, under the penalty of five dollars for each and every offence.

Penalty.

Ibid, s. 9. Penalty for allowing water to flow from hydrants.

28. If any owner or owners, occupier or occupiers of any house or tenement, shall let, permit or suffer any hydrant or hydrants attached to such house or tenement, to discharge more water than may be necessary for the use of such owner or occupiers; if such discharge shall by the freezing of the water in any street, lane, alley or yard in this city, or from any other cause, occasion any injury or inconvenience to the public or to individuals, such owner or occupier shall forfeit and pay a sum not exceeding ten dollars.

Ibid, s. 10. Penalty for injuring fire plugs or opening the same

29. If any person shall break, injure, carry away or destroy any of the fire plugs or instruments belonging thereto; or if any person or persons not authorized by ordinance or otherwise, shall open and suffer any fire plug to discharge water therefrom, such person shall, for every such offence, forfeit and pay the sum of twenty dollars; provided, that this

section shall not extend in any case to any person performing the necessary cleaning of apparatus of the fire department, or attending to any duties required by the corporation. Proviso.

30. If any person or persons shall do or cause to be done any act whatsoever, whereby the water works belonging to the city of Baltimore, or any pipe, plug, cock or any engine or machine appertaining to the same shall be stopped, obstructed, impaired or injured, the person or persons so offending shall forfeit and pay a sum not exceeding twenty dollars. Ibid, s. 11. Penalty for injuring water works.

31. No new hydrant shall be used unless the principle of said hydrant be first approved by the water board; and any person violating this section shall forfeit and pay a fine of ten dollars—one-half to the informer, and the other half to the register for the use of the water department. Ibid, s. 13. New hydrants, principle to be approved by board. Penalty.

32. The water board are hereby directed to have at least thirty fire plugs erected annually hereafter, and placed at such points or places as in their judgment will best serve for the extinguishment of fires; provided the water board shall place at least one fire plug to the front or face of each square of ground or buildings where water pipes may be laid down. Ibid, s. 14; No. 56, Oct. 1, '58. Board to erect fire plugs. Proviso.

33. The sum of five thousand dollars is hereby appropriated annually, to pay the expenses of erecting fire plugs; and the register is hereby directed, with the approbation of the mayor, to pay such sum or sums to the order of the water board, not exceeding the annual appropriation for that purpose.[1] Ibid, s. 15. Annual appropriation for fire plugs.

34. Should any person or persons, occupant or occupants, make the connection or turn or let on the water, without the written consent of the registrar, to his, her or their premises, he, she or they shall forfeit and pay a sum of not less than one dollar nor more than ten dollars. Ibid, s. 17. Connection not to be made or water turned on without consent of registrar.

[1] See secs. 20, 21, 22, p. 190, *ante*.

Ibid, s. 18. Penalty for refusing to allow registrar to visit premises.

35. Should any person or persons, occupant or occupants, refuse to permit the registrar or his agent to visit his, her or their premises, when in the official discharge of his duty, he, she or they shall forfeit and pay a sum of not less than one dollar nor more than ten dollars.

Ibid, s. 19. Fines and penalties—how recovered.

36. All fines and penalties imposed by this ordinance shall be recovered as other fines and penalties are; one-half to the informer, and the other half to the register for the use of the water department.

Ibid, s. 20. Police to report violations of ordinance, &c.

37. It shall be the duty of the police to report all violations of this and other water ordinances, all new buildings using the water from hydrants or fire plugs for building purposes, wasting of water from hydrants, fire plugs out of order, bursted pipes, and person or persons who are using the water from the fire plugs, or causing the water to flow from them contrary to the provisions of this ordinance.

DRUID LAKE, &C.

No. 37, s. 5, May 2, '63. Lakes, &c., in Druid Hill Park.

38. With a view of increasing the storage of water for the supply of the city by the construction of lakes and reservoirs in Druid Hill Park and the land adjoining thereto, the park commission, under the direction of the water board, are authorized to lay a pipe from Hampden reservoir or from the conduit to a reservoir or reservoirs within the park, (to be constructed by the park commission,) and to keep the latter supplied with water from the former, under the control of the water board, having regard to the exigencies of the city, it being understood that the park commission will appropriate to the use of said board for a still further storage of water, any land under the control of the park commission outside of the limits of the park, not affected by any existing agreements, and the park commission are hereby authorized to make such appropriation.

Storage of water.

Ibid, s. 6. Power of water board.

39. For the purpose of supplying such portions of the city as cannot now be supplied from the present reservoirs, the

water board shall have power, at their discretion, to use any of the reservoirs or lakes in Druid Hill Park, and to open the ground and lay down pipes in the said park, as they are now authorized to do within the limits of the city; provided, that the park commission shall be consulted in the location of said pipes, and that the same shall be agreed upon by the two commissions.[1] Proviso.

PUMPS.

40. Whenever the owners of property in any locality, which may be so situate that it cannot be supplied with hydrant water, desire a well to be sunk, or pump to be erected, within the limits of direct taxation, sixteen or more of them, and if outside the limits of direct taxation, and within the limits of the city, eight or more of them shall make application to the water board in writing, describing the place where the new well or pump is required, the water engineer shall examine the location and report to the water board the situation of the property surrounding, together with the distance the water pipes are from the said location; if inthe judgment of the water board, the well and pump are requisite to the public good, the water engineer shall forthwith cause the work to be done by contract to the lowest responsible bidder, after due notice for proposals shall have been published in two of the daily papers of the city, and when completed he shall apportion the expense on all the assessable property which, in his judgment, will be benefited by the erection of said pump, or sinking said well. The water engineer shall make or cause to be made a correct list of the persons who are liable to pay said apportionment, and the amount to be paid by each person; provided, that all property which may be supplied with hydrant water shall be exempt from any such assessment, and the said water engineer shall not assess any person having a

No. 80, s. 1, May 12, '59.

Application for erection of pumps.

Duty of water engineer.

Apportionment

Proviso.

[1] The large lake now being constructed in Druid Hill Park, was called "Lake Chapman" by Res. No. 87, May 19, '65; but the name was changed to "Druid Lake" by Res. No. 111, Mar. 30, '68.

private pump in good order, more than one-half the cost for which said person would otherwise have been liable; he is also hereby directed to deliver to the water registrar a duplicate of such list, under his hand and seal, with directions for collecting the same, nevertheless correcting any mistakes; the registrar shall collect the same, through the agency of the collectors of water rents for the use of the city, under the direction of the water board, adding ten per cent. as commission for said collection, by distress or otherwise, giving thirty days' notice previous to distress, and pay the amount to the city register.

Duty of water registrar.

Distress.

Ibid, s, 2. Water registrar to furnish each person assessed for pumps, bill of same.

41. It shall be the duty of the water registrar, immediately upon receiving from the water engineer, any assessment, made for sinking wells or erecting pumps, to furnish each of the persons assessed with a bill of his, her or their proportion of the expense assessed as aforesaid, and if the person or persons so charged shall not pay the same within sixty days after the bills have been delivered, it shall be the duty of the water registrar forthwith to proceed to enforce payment according to law.

Enforcing payment.

Ibid, s. 3. Pumps out of limits of direct taxation.

42. Whenever any public pump or well, without the limits of direct taxation, and within the limits of the city, shall require to be repaired or deepened, it shall be the duty of the water engineer, upon the application in writing of any seven proprietors of houses or lots, who may be liable to be assessed for such repairs or deepening of such wells, to cause the same to be done, and to assess the expenses thereof on the property benefited thereby, and the water engineer shall also issue his warrant to the water registrar who shall collect the same, in the manner provided for collecting the expense of new pumps and wells.

Ibid, s. 4. Appeal to water board. Tax.

43. If any person shall think himself or herself aggrieved by the pump tax herein directed to be levied, he or she may within ten days after being furnished with his or her account, appeal in writing to the water board, which is hereby author-

ized and directed to nominate and appoint three persons of integrity and ability, not interested or related to the parties, to examine the assessment or tax, and either alter or confirm the same, as they, or any two of them may determine, and shall return the same to the water board with their decision in writing, which shall be final and conclusive, and each of the persons so appointed shall be entitled to one dollar for his service as aforesaid, to be paid by the person or persons appealing, in case the first assessment should be confirmed, otherwise it shall be charged in the expenses of erecting the pump, and levied and collected in the same manner as other charges thereof. Referees.

44. The provisions of this ordinance are hereby made applicable to the construction of artesian wells as fully as to the ordinary wells and pumps; provided that the petitioners shall be responsible for all expenses that may accrue from sinking such artesian well, if a failure should take place in the attempt to procure water.[1] Ibid, s. 5. Artesian wells. Proviso.

45. The water registrar is hereby authorized to draw on the register of the city for such sums as may be necessary to keep such wells and pumps in repair as may subserve the public good; provided that no greater sum shall be expended in any one year, than that which shall be appropriated for repairs; the expense whereof shall be borne by the corporation, and the water registrar shall, once in every three months, render to the water board a just and true account of all money by him expended in repairing or deepening pumps and wells, with vouchers for the same. Ibid, s. 6. Repair wells and pumps. Proviso. Report to water board.

46. It shall be the duty of the water engineer to examine every pump before it is put into the well, and ascertain Ibid, s. 7. Water engineer to examine pumps.

[1] In case of a failure to procure water, the petitioners who have applied for the sinking of the artesian well, are to be responsible for the expenses which may be incurred in the attempt to sink the said well, and not the mayor and city council. *Ruppert* v. *Mayor, &c.*, 23 Md., 184.

whether the work and material be of good quality, and also see that all wells when completed are of at least five feet in diameter, clear of the walls; in all public pumps hereafter repaired or constructed, the platforms shall be of stone, and all new pumps shall have metal nozzles with screws corresponding with those on the hose used by the fire department.

Ibid, s. 8. Persons breaking, defacing, &c., pumps, fire plugs, &c.

47. If any person or persons shall wilfully break, defile, remove, deface, or carry away the handle, or ladle, or cover, or obstruct any pump standing in the streets, lanes or alleys of the city, or otherwise damage or injure the same, or injure or deface any fire plugs, every person so offending, or aiding, or assisting in such offence, shall forfeit and pay a sum not exceeding twenty dollars.

Penalty.

Ibid, s. 9. Water board to receive pumps erected by individuals.

48. The water board is hereby authorized and empowered to receive all such wells and pumps within the limits of direct taxation, as have been erected by individuals who are willing to cede the same to the corporation; provided, such wells and pumps be so situate that at the time of receiving them, they are of public utility, and in good order.

Proviso.

Ibid, s. 10. Water engineer to make assessment and return same to registrar, &c.

49. Whenever a new well shall be sunk, or pump erected, which may require an assessment on property, to defray the expense thereof, and the water engineer shall have made the assessment, and returned the same to the water registrar, and a copy thereof to the water board, said registrar is hereby authorized to pay to the person or persons employed to do the work, or furnish materials for new wells or pumps sunk or erected, the amount of his or their respective bills, in ninety days after he shall have received the certificate of the water engineer that the work has been performed in accordance with the contract made, and that the materials furnished were duly delivered and approved; provided, that nothing herein contained shall be so construed as to allow any expense for repairs of wells and pumps to be incurred which shall cause

Proviso.

an excess of expenditure beyond the amount of the annual appropriation for the repairs of wells and pumps. Appropriation.

50. The water engineer is authorized to remove all pumps which, upon examination may be found to be of no practical use within the limits of the city; provided, two-thirds of the owners of property, and residents within the distance of one square of the pump proposed to be removed, shall first give their written consent to said removal. Res. No. 261, July 13, '60. Removal of pumps.

51. When the water engineer shall remove any pumps, he shall have the wells securely covered with stone platforms, not less than two feet below the curb, filled with dirt and repaved; the expense thereof to be taken from the appropriation for the repairs of pumps. No. 11, Mar. 27, '62. Wells to be covered.

52. The water engineer is authorized and directed to have a piece of granite or marble, not less than twelve inches square, placed in the pavement near or about the centre of the wells where pumps have been, or may hereafter be removed from the public streets, lanes or alleys in the city. No. 63, s. 1, May 6, '66. Places to be marked.

53. If any person or persons shall remove said stone or mark for the purpose of repairing the pavement, or for any other purpose, and refuse or neglect to replace it, said person or persons shall be subject to a fine of five dollars for each and every offence. Ibid, s. 2. Penalty for removing marks.

54. If any person or persons shall introduce a pipe or sewer into any of the wells belonging to the city, for the purpose of draining water closets, or for any other purpose whatever, each and every person, for each and every such offence, shall forfeit and pay a sum not exceeding twenty dollars, one-half to be paid the informer and the other half to the register for the use of the water department. Ibid, s. 3. Pipes, &c., not to be introduced into wells. Penalty.

55. It shall not be lawful for any person or persons to place any hogshead, barrel or cask, for the purpose of filling the same, so near any public pump or hydrant as to be an No. 33, s. 13, R. O. Pumps and hydrants not to be obstructed.

obstruction to citizens going to and from the same, or by any other method obstruct the free use of the water in any pump or hydrant; but all hogsheads, barrels and casks shall be placed at a distance of at least ten feet from any pump or hydrant, under a penalty of not more than five dollars or less than one dollar.

Penalty.

Ibid, s. 14.

Pumps, fountains, &c., protected from nuisances.

56. If any person shall clean, scale or wash any fish, meat, clothes, or any other thing which may be liable to create a nuisance, or render the street, lane or alley foul or unclean, near any of the public pumps, springs or fountains in the city, every person so offending shall forfeit and pay a sum not exceeding five dollars.

Penalty.

MD. STATE LIBRARY.

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