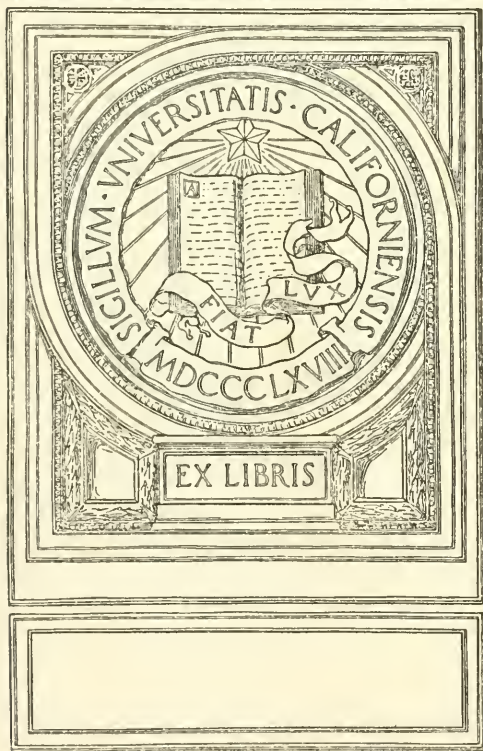




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*Supplement*

# THE NEW CHARTER OF BALTIMORE CITY

Enacted by the Acts of 1898, Ch. 123

With all amendments and additions thereto down to and including the Acts of 1914; and with an Appendix containing the Acts establishing the City's boundaries, the General Condemnation Law and the Agreement between Baltimore City and Baltimore County, as to the use of the Out-Fall Sewer by Baltimore County, and with references to, and annotations of, decided cases.

COMPILED UNDER THE DIRECTION OF

S. S. FIELD, CITY SOLICITOR,

BY

HENRY W. WEEKS,

FOR FIFTEEN YEARS CLERK OF THE LAW DEPARTMENT

OF BALTIMORE CITY.

MAR 24 1923

BALTIMORE CITY  
PRINTING AND BINDING  
COMPANY.

ANNOUNCEMENT OF THE  
BALTIMORE CITY PRINTING AND BINDING COMPANY



573  
1814

## REPORT OF COMMISSION

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BALTIMORE, January 27, 1898.

*To the Honorable General Assembly of Maryland:*

The Commission appointed pursuant to the ordinance of the Mayor and City Council of Baltimore, approved November 24, 1897, to draft a new Charter for the City of Baltimore, herewith, as directed by said ordinance, respectfully submit the result of their labors.

After mature deliberation the Commission decided at the beginning of their work of preparing a new organic Act for the City of Baltimore, to be governed by certain well-defined and recognized principles relating to municipal government, which had been found in other cities to be beneficial and which it was thought were fundamental and necessary, if there were to be an improvement on the present law relating to the City of Baltimore. Some of these controlling principles were:

1. To locate responsibility upon public officials in such a manner that it could not be evaded.

2. To give representation to the minority party in all departments, when composed of more than one person, so that an opportunity might be given to the minority to scrutinize the actions of the party in power.

3. To hold municipal elections at a different time from the State and Federal elections, in order to separate municipal affairs from the influence of the political issues which are necessarily involved in State and Federal elections.

4. To require the appointment of experts in all departments where professional knowledge and skill are required.

5. To grant the use of the streets and other public property for limited terms, and to the highest bidder, subject to the control and regulation of the city during the period of the grant.

6. To check hasty legislation, especially in matters relating to expenditure of the public moneys, and to prohibit the creation of floating debts.

7. To remove the public school system from all possible political influence.

8. To place the indigent sick and poor, when their treatment, care or support is paid for by the city, under the supervision of city officials.

The most advanced and improved forms of municipal government, as far as the Commission have been able to ascertain, have had incorporated in them the placing of the power of appointment in one person. It might well be urged that this is conferring too much power upon one man, that the appointing power in city government should be distributed; but experience has shown that by centralizing the appointing power the responsibility for official conduct can at once be definitely fixed. The Charter submitted places the power of appointing the heads of all departments and their respective sub-departments in the Chief Executive of the city, the Mayor, where it properly belongs. The Commission have not taken the extreme position of making the Mayor absolute in regard to this power of appointment. His appointments must be confirmed by the Second Branch of the City Council. The power of appointing all subordinates and employees in the several departments and sub-departments is in each case lodged in the head of the department. The Commission have to this extent endeavored to carry out the single-executive-head system, which has been tried in other cities with good results. It is hoped with this system, as now recommended, the Mayor will be more careful in appointing heads of departments or sub-departments, and the various heads so appointed will also be more careful in selecting competent subordinates.

The principle of representation from the minority party in all departments, boards or commissions, where composed of more than one person, is carried out in the proposed Charter. This will not prevent the successful party at the municipal election from adopting and carrying out any policy or reforms which, in its judgment, might be right and proper, and will in no way interfere with the administration of public affairs by the successful party; but it will afford to the minority at all times a right of representation in the city government, and will give it an opportunity of scrutinizing the actions of the party in power.

The feature of the spring elections is designed for the distinct purpose of separating the municipal elections from those of the State and Nation. It must be conceded that in order to make a good Mayor of a large and prosperous business centre like Baltimore there is no inherent necessity for his belief in one rather than another of the principles which separate the leading political parties. The State and National questions are invariably discussed and made issues at all the November elections, and it is difficult to remove from the influence of these discussions

municipal affairs when the elections are held at the same time. The spring elections, it is hoped, will enable the citizens of Baltimore to eliminate everything from their municipal campaigns except that which pertains to the best business administration of the city, and will present to the voters an opportunity of electing such of the municipal candidates as are most likely to ensure good municipal government.

The provisions of the Charter placing experts at the head of the various departments and sub-departments where professional knowledge is required, are expected to secure to the city the best service of men of competent knowledge and experience in the departments placed under their charge. The Commission have adopted the following general provision wherever expert knowledge is required: "He must have had at least five years' experience in the active practice of his profession and have had responsible charge of work for at least that length of time." Experts are required in the following offices: City Engineer, Water Engineer, Harbor Engineer, Inspector of Buildings, and Commissioner of Health. It was deemed advisable for the best interests of the city to put the entire subject of public improvements under the direct control and supervision of a board of experts, styled the Board of Public Improvements. On this Board the Charter submitted, places three civil engineers and an architect, and all matters are referred to them when involving questions of new public buildings, additional harbor facilities, a sewerage system, extension or improvement of streets, the erection of bridges and other similar work.

The proposed Charter requires that the grant of franchises or rights in, over or under the streets or in other public property shall be made for only limited periods (twenty-five years), and also provides that in all ordinances granting such franchises or rights provision can be made for the reverting to the city at the expiration of the grant, of the plant and its appurtenances, and gives power to the city to operate and control the same, if it should prove desirable. All franchises or rights in the highways of the city are to be sold under the supervision of the Board of Estimates. Under no circumstances can the city divest itself of the right or power to regulate the exercise of the franchise or right granted.

The Commissioners have also endeavored to protect the public interests in relation to the finances of the city by the provision of the proposed Charter in regard to the Board of Estimates. This Board is composed of the highest officials of the city government, that is to say, the Mayor, who is the chief executive officer

of the city and elected by the people; the City Solicitor, who is appointed by the Mayor and is the head of the Law Department, and who will always be a prominent member of the bar; the Comptroller, who is also elected by the people and responsible to them, and who is the head of the Finance Department; the President of the Second Branch of the City Council, a representative member from the legislative branch of the city government, and, finally, the President of the Board of Public Improvements, who is the City Engineer, and will be an expert in engineering. It is believed that by this strong combination of leading city officials, representing every branch of the municipal government, the financial interests of the city will be carefully guarded and that the welfare of the citizens will always be the controlling motive in the deliberations and actions of the Board. The duties of this Board are comprehensive in their nature and include the general control of the financial policy of the city. In the preparation of the lists of "Departmental Estimates," "Estimates for New Improvements" and "Estimates for Annual Appropriations," called for by the proposed Charter, the entire appropriations of public funds are embraced. It may, therefore, be expected that the composition of this Board of the highest municipal officers and representatives of the city government will furnish a guarantee in the future against extravagance and the reckless expenditure of public moneys. The provisions of the Charter submitted relating to the Board of Estimates are sufficiently comprehensive to furnish to the municipality opportunities for a safe and conservative financial policy and to prevent the public debt from advancing beyond a safe per centum of the taxable basis. Ample provisions are made for conducting the city government, and no floating debt can be created. The Board of Estimates, in the ordinance they annually submit, providing for the expenditures by the city for the ensuing year, take into consideration all the disbursements, and if the income is insufficient to meet these expenditures there must be a pro rata reduction in all departments. If there is a surplus it must be paid over to the Finance Commissioners to be credited to the general sinking fund. By this provision it is hoped that the sinking fund will be greatly benefited. When any ordinance for public improvements exceeding in cost the sum of \$2,000 has passed its first reading in either Branch of the City Council it shall be referred to the Board of Public Improvements for their opinion as to whether or not the wants of the city require the improvement mentioned in the ordinance submitted, and when this Board give their report

on this ordinance it is then referred to the Board of Estimates for their opinion as to whether or not there is or will be sufficient money in hand to pay for the contemplated improvement. Until both of these Boards report upon the ordinance it cannot become valid. It will be readily seen that in this manner hasty legislation will be checked, and it is probable that only such ordinances for public improvements will be passed for which there is sufficient cash on hand to pay and which the requirements of the city demand. By these provisions it is believed a step will be taken in the direction of a regular and systematic reduction of the enormous debt which now hangs over the City of Baltimore and a check placed upon the expenditure of its money, so as to keep the expenses and appropriations of the city government entirely within its means.

The provisions of the proposed Charter relating to the public school system have been framed after careful consideration and research respecting the systems in force in various cities of importance. It provides for the appointment of the School Commissioners, nine in number, by the Mayor, subject to confirmation by the Second Branch, for a term of six years each, three of them to retire at the end of every two years. It is submitted that a long term, together with the other provisions which have been inserted, will cause the affairs of the schools of Baltimore to be administered by competent men, independent of partisan and ecclesiastical ties. The endeavor has been made to secure three things: First, oversight of the schools by a Board of Commissioners so selected as to ensure conservative administration and full responsibility; second, attention to the details of school management by a body of qualified superintendents, and, third, the maintenance of popular interest in the public schools by means of a large number of local school visitors, one or more of them from the immediate neighborhood of each school-house.

The Charter submitted gives to the city a supervision over all persons who come under the class of indigent sick and poor. All money appropriated by the city for the care of its poor shall be by contract with the various institutions which care and provide for the poor of Baltimore. No money is to be appropriated except under contract, and the Supervisors of City Charities are to have supervision over all persons who are subjects of municipal aid.

The Legislative Department remains substantially as at present, except that the Second Branch is smaller, and that one-half are always old and experienced members. The legislative functions of the City Council are in no wise impaired. Not one cent

of the public money can be spent until the City Council, by ordinance, makes an appropriation.

The Commission have had before them the great need of increased revenue to meet the constantly growing wants of the city. To this question the members of the Commission have given their most serious thought. Taxes today are burdensome on the owners of land and houses, and to meet the wants of the city this burden must be largely increased unless the revenue of the city can be increased from other sources. The Commission have proposed to so modify the law as to give to the city all the fees collected by it from liquor licenses. A Supplementary Act accompanies the Charter, providing that the counties shall retain the fees collected by them from the same source. The Commission feel that they would not be performing their full duty if they did not urge upon the Legislature the necessity for this change and the adoption of the provisions as to these fees contained in the proposed Charter.

Another Supplementary Act provides for certain limitations on the power of the city as to contracting debts. This provision is a proper one and should be adopted.

The Commission believe that the Charter herewith submitted will, if adopted, remedy many of the faults of the old law, and provide such a law as will materially contribute to the future development and prosperity of the great metropolis of Maryland.

WILLIAM PINKNEY WHYTE, *Chairman,*

FERDINAND C. LATROBE,

DANIEL C. GILMAN,

SAMUEL D. SCHMUCKER,

GEORGE R. GAITHER, JR.,

THOMAS IRELAND ELLIOTT,

THOMAS G. HAYES,

LEWIS PUTZEL,

*New Charter Commission.*

FREDERICK T. DORTON, *Secretary.*

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ACT OF 1898,  
CHAPTER 123.

AN ACT TO REPEAL ARTICLE 4, ENTITLED "CITY OF BALTIMORE," OF THE CODE OF PUBLIC LOCAL LAWS OF MARYLAND, AND THE SEVERAL ACTS AND PARTS OF ACTS AMENDATORY THEREOF, AND TO RE-ENACT SAID ARTICLE 4, WITH AMENDMENTS, UNDER TWO SUB-TITLES, TO BE KNOWN AS "CHARTER" AND "MISCELLANEOUS LOCAL LAWS."

Section 1. *Be it enacted by the General Assembly of Maryland,* That Article 4, entitled "City of Baltimore," of the Code of Public Local Laws of Maryland, and the several Acts and parts of Acts amendatory thereof, be and the same are hereby repealed, and the said Article 4 is hereby re-enacted, with amendments, under two sub-titles to be known as "Charter" and "Miscellaneous Local Laws," so as to read as follows:

ARTICLE IV.  
CITY OF BALTIMORE

CHARTER

MAYOR AND CITY COUNCIL OF BALTIMORE.

*Corporate Name, Power to Hold Property, Annex.*

P. L. L., (1860) Art. 4, sec. 1. P. L. L., (1888) Art. 4, sec. 1.

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

Mayor & C. C. of Balto. v. State, 15 Md. 376. State v. Graves, 19 Md. 351. Horn v. Mayor & C. C. of Balto., 30 Md. 218. Pumphrey v. Mayor, &c., of Balto., 47 Md. 145. Ireton v. Mayor, &c., of Balto., 61 Md. 432. Dugan v. Mayor, &c., of Balto., 70 Md. 1. Balto. City v. Merryman, 86 Md. 591. Balto. City v. Gorter, 93 Md. 6. Davidson v. Balto. City, 96 Md. 511. Balto. City v. Beck, 96 Md. 190.

As to powers of the municipal corporation generally, see M. & C. C. of Balto. v. Howard, 20 Md. 335. Mayor, &c., of Balto. v. Poultney, 25 Md. 107. Mayor, &c., of Balto. v. Groshon, 30 Md. 436. Hagerstown v. Sehner, 37 Md. 180. Greff v. Mayor, 44 Md. 67. Mayor, &c., of Balto. v. Reitz, 50 Md. 574. Heiskell v. Mayor, 65 Md. 148. State v. Rowe, 72

Md. 548. Lake Rol. Elv. R. R. Co. v. Balto., 77 Md. 352. Revell v. Annapolis, 81 Md. 1. M. & C. C. of Balto. v. Keeley Inst., 81 Md. 106. Mealey v. Hagerstown, 92 Md. 741. Packard v. Hayes, 94 Md. 233. Murdoch v. Strange, 99 Md. 104. Cambridge v. Water Co., 99 Md. 502.

See note to sec. 1, Art. 1 (Statutes) City Code (1879).

City may be sued in the County for trespass to real estate.

Baltimore v. Turnpike Company, 104 Md. 351.

Southern boundary of city extends to limit of any pier built from city side into river.

West. Md. Co. v. City, 106 Md. 561.

But jurisdiction does not extend over floating piers or vessels, moored to shore.

Treuth v. State, 120 Md. 257.

In transitory actions city must be sued in its own Courts.

Phillips v. M. & C. C., 110 Md. 431.

P. L. L., (1860) Art. 4, sec. 2. P. L. L., (1888) Art. 4, sec. 1.  
1888, ch. 111.

2. All the property and franchises of every kind belonging to, or in possession of the Mayor and City Council of Baltimore are vested in said corporation. The said corporation may receive in trust, and may control for the purposes of such trust all moneys and assets which may have been or shall be bestowed upon it by will, deed or any other form of gift or conveyance in trust for any general corporate purpose, or in aid of the indigent poor, or for the general purposes of education or for charitable purposes of any description within the said city, and the said corporation may dispose of, in the manner and upon the terms in this Article provided, any property belonging to it.

Exrs. of McDonough v. Murdoch, 15 Howard 413. Darlington v. Mayor & C. C. of Balto., 51 Md. 1. Gregg v. Mayor & C. C. of Balto., 56 Md. 256. Barnum v. Mayor & C. C. of Balto., 62 Md. 275. Davidson v. Balto. City, 96 Md. 511. Cf., Johnson v. Frisbie, 29 Md. 76. Kilpatrick v. Mayor, 81 Md. 179.

The legislature possesses wide powers of control and legislation over the City of Baltimore, but its power is not absolute and unlimited.

Thrift v. Laird, 125 Md. 55.

P. L. L., (1888) Art. 4, sec. 4. 1888, ch. 98.

3. All the provisions of the Constitution of the State and of this Article shall be applicable to the portions of Baltimore County, which, under the terms and provisions of the Act of 1888, Chapter 98, have been annexed to the City of Baltimore. All streets, avenues or alleys lying in any portion of Baltimore County, which, under the provisions of said Act of 1888, Chapter 98, became a part of Baltimore City, and which shall have been legally condemned as streets under the provisions

of the Acts of Assembly of Maryland relating to streets in Baltimore County, shall be held to be validly constituted streets of Baltimore City in all respects as if the same had been legally condemned as such by the Mayor and City Council of Baltimore; and all proceedings for the laying off, opening, grading and construction of streets, avenues or alleys, which shall have been begun under Article 3, of the Public Local Laws, title "Baltimore County," sub-title "Streets," shall be proceeded with and completed under said Article and sub-title.

Daly v. Morgan, 69 Md. 460. Chilton v. Brooks, 71 Md. 452. Murgiondo v. Hoover, 72 Md. 12.

As to effect of Annexation Act on rights of turnpike companies in bed of streets in annexed territory and powers of the Mayor and City Council of Baltimore in relation to streets occupied by such companies, *see*,

Baltimore & Jerusalem Turnpike Co. v. Mayor & C. C. of Balto., Daily Record, April 24, 1890. Roberts v. Loyola Perm. Bldg. Asso., 74 Md. 1. Murphy v. McEney, 77 Md. 80. Mayor & C. C. of Balto. v. Turnpike Co., 80 Md. 541. Ulman v. Charles St. Ave. Co., 83 Md. 138. Park Tax Case, 84 Md. 1. Baltimore City v. Broumel, 86 Md. 155. U. Rys. Co. v. Hayes, 92 Md. 490. Upshur v. Baltimore, 94 Md. 754. Balto. City v. Balto. Co. Water & Elec. Co., 95 Md. 241.

1908, ch. 286. 1888, ch. 98. P. L. L. (1888) Art. 4, sec. 5.

4. All personal property situated or held in the territory annexed to Baltimore City by the Act of 1888, Chapter 98, shall be subject to levy, taxation and assessment in the same manner and form, and at the same rate of taxation as property of similar character or description within the old limits of said city may be subject. It shall be the duty of the Appeal Tax Court of said city, as soon as possible after this section of this article takes effect, to divide all the real and leasehold property in said territory into three separate classes, to be known as urban, suburban and rural property, for the purposes of city taxation for the year 1909, and to revise said classification annually thereafter for city taxation on or before October 1st of each and every year for succeeding years in accordance with the following classification, said three classes to be defined and subject to city taxation as follows: (1) All real and leasehold property in said territory which is now legally liable to full city taxation, and all real and leasehold property situated in said annexed territory, located in a block of ground not exceeding 200,000 superficial square feet, formed and bounded on all sides by intersecting streets, avenues or alleys, opened, graded, curbed and otherwise improved from curb to curb by pavement, macadam, gravel or other substantial material, shall be classified as urban property, and shall be subject to the same

rate of city taxation as real and leasehold property within the old limits of said city may be subject. (2) Every lot, or piece of real and leasehold property to a depth not exceeding 200 feet, situate in said territory, which fronts, binds or abuts on any public street, avenue or highway, lighted at public expense, and completely paved from curb line to curb line, including gutters, with bitulithic, asphalt, asphalt blocks, belgian blocks, vitrified bricks, macadam in good condition as heretofore laid before this section of this article took effect, or if laid subsequent thereto, laid without direct assessment for the cost thereof, in whole or in part, upon the abutting property owners, unless the owners of a majority of front feet of property binding upon said street, avenue or highway, or the part thereof to be paved, expressly assent to said direct assessment, and laid in accordance with existing standards of proper macadam construction as laid under the supervision of the City Engineer, or other improved pavement (or with cobblestones laid before this section of this article took effect, or laid subsequent thereto upon the assent of the owners of the majority of the front feet of property binding upon said street, avenue or highway, or the part thereof to be paved), as distinguished from earth or gravel, which streets, avenues or highways are continuously connected by public or private streets, roads, avenues or highways (other than turnpikes upon which tolls are charged within the limits of said city) paved from curb line to curb line, including gutters, with bitulithic, asphalt, asphalt blocks, belgian blocks, vitrified bricks, macadam or other improved pavement or cobblestones, as distinguished from earth or gravel, with the territory embraced within the old city limits, shall be classified as suburban property, and shall be subject, for the purposes of city taxation to a rate equal to two-thirds of the rate to which urban property may be liable, but in no year shall the rate for suburban property exceed that of one dollar and thirty cents (\$1.30) on the one hundred dollars (\$100) of the assessed value of such suburban property. (3) All real and leasehold property in said annexed territory which does not come under either the classification of urban or suburban property, as hereinbefore defined, shall be classified as rural property, and shall be subject, for the purposes of city taxation, to a rate equal to one-third of the rate to which urban property may be liable, but in no year shall said rate be less than the rate of sixty-five cents on the one hundred dollars (\$100) of the assessed value of such rural property; provided, that all taxes levied or assessed in said annexed territory prior to the levy and assessment to



be made for the year 1909 shall be subject to the provisions of the Act of the General Assembly of Maryland, Chapter 130, Acts 1902, and all other laws in force relating to the levying and assessment of taxes in said annex prior to the passage of this Act. All the easements and rights of way of railroads and the tracks or other structures erected thereon, and all easements or other property located in, on, under or over the streets, roads, avenues, alleys, highways, or ways in said annexed territory, shall be and hereafter remain subject to taxation as now or hereafter provided by law.

Daly v. Morgan, 69 Md. 460. Sindall v. Mayor & C. C. of Balto., 93 Md. 526. U. Rys. & Elec. Co. v. Balto. City, 93 Md. 630. Balto. Belt R. R. Co. v. Baltimore, 93 Md. 638. Goebel's Case, 93 Md. 749. Kuenzel's Case, 93 Md. 750. Gittings v. Baltimore, 95 Md. 420. Baltimore City v. Poole, 97 Md. 71, 72. Joesting v. Balto. City, 97 Md. 590. Cf., Groff v. Mayor, 44 Md. 67. Baltimore v. Rosenthal, 102 Md. 298. United Railways, etc. Co. v. Baltimore City 93 Md. 630. Joesting v. Baltimore City, 97 Md. 591. Storek v. Baltimore City, 101 Md. 476. M. & C. C. of Balto. v. Rosenthal, 102 Md. 298. Hiss v. M. & C. C. of Balto., 103 Md. 621.

For classification at full rate streets must be public. Rubblestone gutters are sufficient curbing within the meaning of the Act.

Smith v. Baltimore, 120 Md. 143.

Passes upon size of block in Annex, and condition of the paving, to bring block under full city rate of taxation.

M. & C. C. v. Harris, 113 Md. 227.

Defines a block for taxation in the Annex.

M. & C. C. v. Knell, 111 Md. 583.

#### 4A. Repealed by Act of 1908, Chapter 286.

P. L. L., (1888) Art. 4, sec. 6. 1888, ch. 98. 1890, ch. 468.

5. The annexation to the City of Baltimore of the territory described in the Act of 1888, Chapter 98, shall not affect the right of any turnpike or toll-road company heretofore chartered by this State from collecting tolls upon such parts of their said roads as lie within said territory, nor shall any provision in the charter of said companies which prohibits the erection of a toll gate within one mile of Baltimore City, operate to require the removal of any toll-gates now located within said territory. But the Mayor and City Council of Baltimore shall have the power to purchase or condemn from said companies such portions of their several turnpike roads as lie within the city, or to arrange with the said companies for the removal of their turnpike gates beyond the city limits, and to appropriate such sums of money as may be necessary to carry out these objects.

M. & C. C. of Baltimore v. Turnpike Co., 80 Md. 541. Ulman v. Charles St. Ave. Co., 83 Md. 138.

## GENERAL POWERS.

6. The Mayor and City Council of Baltimore shall have full power and authority:

Baltimore City v. Gorter, 93 Md. 1.

The legislature possesses wide powers of control and legislation over the City of Baltimore, but its power is not absolute and unlimited.

Thrift v. Laird, 125 Md. 55.

## (1) BUILDINGS.

P. L. L., (1860) Art. 4, secs. 29, 823, 864, 943. P. L. L., (1888) Art. 4, secs. 121-124. 1892, ch. 10. 1904, ch. 616. 1906, ch. 797. 1910, ch. 704.

To direct in what part of Baltimore City buildings of wood shall not be erected; to regulate and establish the size of bricks that are to be used in the houses to be built in the City of Baltimore; to provide for the entry into and examination of all dwellings, lots, yards, inclosures and buildings, cars, boats and vehicles of every description; to ascertain their condition for health, cleanliness and safety; to regulate the building and maintenance of party walls, partition fences, parapet and fire walls, smoke flues, fire places, hot-air flues, boilers, kettles, smokestacks and stovepipes. To provide for and regulate the safe construction, inspection and repairs of all private and public buildings within the city; and to compel the consumption of smoke and make such regulations as may be deemed necessary to prevent the same from becoming deleterious or offensive to health. To take down and remove, or make safe and secure, any and all buildings, walls, structures or superstructures, at the expense of the owners thereof, that are or may become dangerous, or to require their owners or agents to take down and remove them, or put them in a safe and sound condition at their own expense; to make any and all costs and expenses incurred in, about the taking down and removal, of making safe and secure of all buildings, walls, structures or superstructures, as aforesaid, a lien upon the interests of the owners in the land or improvements, or both, and to provide for the enforcement of such liens by sale of the property, whether real or personal; to regulate, restrain or prohibit the erection of wooden or frame buildings within the present limits of the city, and to remove the same at the owner's expense when erected or suffered to remain contrary to law or ordinance; to regulate the height, construction and inspection of all new buildings hereafter erected in said city; and the alteration and repairs of any buildings already erected, or hereafter to be erected in said city; and the ordinance regulating the construc-

tion and inspection of buildings in said city passed by the City Council and approved by the Mayor October 23, 1891, is hereby authorized and legalized in the same manner as if full authority had been given by the General Assembly for the passage of the same prior to its enactment; to regulate the limits within which it shall be lawful to erect any steps, porticos, bay windows, bow windows, show windows, awnings, signs, columns, piers or other projections or structural ornaments of any character for the houses fronting on any of the streets, lanes or alleys of said city; provided, however, that within that part of Baltimore City actually consumed by the great fire of February 7 and 8, 1904, it shall be unlawful to erect upon the streets, lanes and alleys of the city, between the grade of the sidewalks and a point ten feet above such grade, any such awning, step, portico, bay window, bow window, show window, sign, except signs placed against buildings and not extending more than two inches therefrom, column, pier or other projection or structural ornament of any character, except the stone bases of pilasters for ornamental and architectural effect, not exceeding more than eight inches from the building line.

Mayor v. Radecke, 49 Md. 217. Garrett v. Janes, 65 Md. 260. Townsend, Grace & Co. v. Epstein, 93 Md. 537. Bostock v. Sams, 95 Md. 400. Storek v. Mayor, etc. Baltimore, 101 Md. 476.

In the Storek case, above cited, the Act of 1904, ch. 616, was declared inoperative as to that part of the city outside of the "Burnt District." The first proviso in section 6 of the City Charter, title "General Powers," sub-title "Buildings," as re-enacted by said Act, was declared void for uncertainty, and the second proviso thereof void as being arbitrary and unreasonable. The object of the Act 1906, ch. 797, was to modify the paragraph relating to buildings so as to conform to the decision of the Court of Appeals in the Storek case.

For further cases relating to building matters, covered by the paragraph of section 6 in relation to buildings, *see*,—

Barry v. Edlavitch, 49 Md. 217. Dorsey v. Habersack, 84 Md. 117. Serio v. Murphy, 99 Md. 545.

## (2) CARRIAGES.

P. L. L., (1860) Art. 4, secs. 138, 139, 863. 1880, ch. 69. P. L. L., (1888) Art. 4, secs. 132-134.

To license and regulate all carriages and other vehicles owned or used for the purpose of business or pleasure, and also all hackney coaches, carriages, carts, drays, omnibuses, wagons and other vehicles, kept for hire or hired in said city, and also to license and regulate the employment of all hackmen, draymen, wagoners, carters, porters and watermen, plying for hire within the limits, and to pass all necessary and proper regulations respecting the same; provided, however, that all revenue arising

from said licenses shall be applied to the paving or repaving of the public highways of the city. 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. To regulate the breadth of the wheels of wagons, carts and drays to be used for hauling burdens on the streets of said city, but such regulations shall not affect persons hauling produce to said city.

Vansant v. Harlem Stage Co., 59 Md. 330. State v. Rowe, 72 Md. 552. Mason v. Cumberland, 92 Md. 451.

### (3) CHIMNEYS.

P. L. L., (1860) Art. 4, sec. 150. P. L. L., (1888) Art. 4, sec. 148.

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 and regulate the width of those to be built in the city.

### (4) CONDEMNATION OF PROPERTY.

1892, ch. 307. P. L. L., (1888) Art. 4, sec. 148a. 1906, ch. 397. 1906, ch. 402. 1908, ch. 166.

To acquire by purchase or condemnation any land or any interest therein which it may require for school-houses, engine-houses, court-houses, markets, streets, bridges and their approaches, the establishment or enlargement of parks, squares, gardens or other public places, the establishment of esplanades, boulevards, parkways, park grounds or public reservations, around, adjacent, opposite, or in proximity or leading to any public building or buildings, or which it may require for any other public or municipal purpose; and also any and all land and property or interest in land and property adjoining and extending such distance as may be adjudged necessary from any property in use or about to be acquired for such esplanade, boulevard, parkway, park grounds or public reservation, as aforesaid, the use of which said adjacent property it may be deemed necessary or beneficial to subject to lawful restrictions or control, in order to better protect or enhance the usefulness of such public building or buildings, or in any manner to promote the interests of the public therein, or to more fully effectuate the purposes of the establishment of such esplanade, boulevard, parkway, park grounds or public reservations; and to sell thereafter such adjacent lands or property, subject to such reservations or restrictions as to the subsequent use thereof,

as may appear advisable for the protection of such public building or buildings, or for enhancing the usefulness thereof, or in any manner to promote the interests of the public therein, or for better insuring the protection or usefulness of such esplanade, boulevard, parkway, park grounds or public reservations, or in any manner to better accomplish the purposes and serve the public interests for which they shall have been or shall be established. The Mayor and City Council of Baltimore may prescribe the procedure for condemnation of any land or property situated wholly within the City of Baltimore, which under the foregoing provisions it is authorized to condemn, but such procedure as the said Mayor and City Council of Baltimore may adopt shall include provision for reasonable notice to the owner or owners, and for appeals to the Baltimore City Court by any person interested, including the Mayor and City Council of Baltimore, from the decision of any commissioners or other persons appointed to value any such land or property, or interest therein. Nothing herein contained shall be construed as depriving the city of any power of condemnation for any purpose already vested in it. The Mayor and City Council of Baltimore shall have full power and authority to provide by ordinance for ascertaining whether any and what amount of benefits will accrue to the owner or possessor of any ground or improvements within the City of Baltimore by reason of the establishment or enlargement of any parks, squares, gardens, esplanades, boulevards, parkways, park grounds, public reservations or other public places, for which said owner or possessor ought to pay compensation, and to provide by ordinance for assessing or levying the amount of such benefits on the property of persons so benefited; provided, that provision is made therein for reasonable notice to the person or persons against whom such benefits are to be assessed, and provided that provision be made for appeals to the Baltimore City Court by any person or persons interested, including the Mayor and City Council of Baltimore, from the decision of any board, commissioners or other persons appointed or authorized to assess such benefits.

O'Brien v. Baltimore Belt R. R. Co., 74 Md. 375. Gluck v. Mayor, etc., Balto., 81 Md. 315.

*Wharves and Docks:* Condemnation of wharfage and dockage rights. Valuation of franchise right of wharfage, right of appellants to dock its own vessels at its wharf and the right of access to such wharf over navigable water. Held that it is impossible to segregate these elements for purposes of valuation separately in the condemnation of same for public improvements.

Mayor & C. C. of Balto. v. Balto. & Phila. Steamboat Co., 101 Md. 485.

*Condemnation of Property:* In this connection, *see also* Baltimore v. Rice, 73 Md. 307; Van Witzon v. Gutman, 79 Md. 411; Shanfelter v. Mayor, etc., 80 Md. 483.

For recent cases relative to parties entitled to compensation when land is condemned for municipal purposes, *see*,

Mayor, etc. Hagerstown v. Groh, 101 Md. 560. Baltimore City v. Latrobe, 101 Md. 625.

Mere inconvenience of access, or mere diminution of light and air to property does not constitute a "taking" within the meaning of the Constitution. Such injury to come within the constitutional provision must be such as to amount to their substantial destruction.

Baltimore v. Bregenzer, 125 Md. 78.

Condemnation proceedings for water supply.

Brack v. Baltimore, 125 Md. —.

A dedication of land to public use may be revoked before acceptance by an exclusive and adverse possession thereof by the owner.

Canton Co. v. M. & C. C., 106 Md. 69.

In condemnation proceedings under the Annex Improvement Act of 1904, property liable for benefit assessment in street openings, even though the Act provides a loan out of which expenses of condemnation may be defrayed.

Lauer v. M. & C. C., 110 Md. 447.

In street condemnation proceedings the preliminary plat showing property to be taken need not show a portable building.

Whiteley v. M. & C. C., 113 Md. 541.

Street held not to be dedicated to public use.

Bloede v. M. & C. C., 115 Md. 594.

Merely because parties may receive from the closing of a street more direct benefits than the public at large, it does not follow that the closing of the street is for private and not for public benefit.

M. & C. C. v. Brengle, 116 Md. 342.

The principle that damages are not ordinarily recoverable for an injury to adjacent land caused by a lawful change in the grade of a public highway is confined to cases in which no part of the abutting property is taken and where any land is taken in a street condemnation, the "just compensation" required to be paid under the Constitution must include not only the value of the land condemned, but also a due allowance of damages for injury to the remainder.

M. & C. C. v. Garrett, 120 Md. 608.

When the erection of a structure in a public street cuts off the light and air, and the ingress and egress to and from a building abutting on said street, it amounts to a taking of property even though there has been no actual physical invasion.

Walters v. M. & C. C., 120 Md. 644.

Where a deed merely describes the land conveyed as abutting on a street which was only referred to once, and whose width is not given, and where there was no evidence of any dedication, it was held that no dedication could be presumed from the deed.

M. & C. C. v. Yost, 121 Md. 366.

The fact that Chapter 110 of the Acts of 1910, authorizing the construction of the Fallsway, provided a fund to meet the cost and expenses

of the improvement, had no effect on the power of the city and the Commissioners for Opening Streets to assess benefits.

P. B. & W. R. R. Co. v. M. & C. C., 121 Md. 504.

The Fallsway having been constructed under the special authority of Chapter 110 of the Acts of 1910, there was no legal necessity of giving the notice required by Section 828 of the Charter, in order to render benefit assessments valid.

Safe Deposit & Trust Co. v. M. & C. C., 121 Md. 522.

The "just compensation" required by the Constitution to be paid when private property is taken for public use, includes not only the value of the part of the lot condemned, but also a due allowance for damages for any injury done to the remainder.

M. & C. C. v. Megary, 122 Md. 20.

In condemnation proceedings to close a street, damages cannot be legally demanded for consequential injuries to property that is several squares distant from the street closed and which has means of ingress and egress independent of the street closed.

German Lutheran Church v. M. & C. C., 123 Md. 142.

In condemnation proceedings to open a public street, the question of whether the permanent grade should not be established before the assessment of benefits is one within the jurisdiction of the Baltimore City Court, with the right of an appeal from its decision to the Court of Appeals.

M. & C. C. v. Johnson, 123 Md. 320.

When an assessment for benefits for the opening of a street has been made before the fixing of the grade, on appeal to the Baltimore City Court, a prayer instructing the jury that there is no evidence in the case legally sufficient to justify an assessment of benefits against the property is proper.

Patterson, et al. v. M. & C. C., 124 Md. 153.

When a street is dedicated to the public merely by deeds and plats of the grantee and has never been expressly or by implication accepted by the public authorities or ever used as a street for over sixty years after such deeds were recorded, and where the ground so dedicated had never been paved or lighted but had been enclosed by a fence and leased out and used by private parties, and for over thirty years the public authorities had assessed and collected taxes on the property, it was held that the city was estopped from asserting any rights over the property or from accepting the dedication.

M. & C. C. v. Canton Co., 124 Md. 620.

Where in a conveyance of land the description is by reference to streets designated as such in the conveyance or on a map made by the city or by the owner of the property, there is an implied covenant that the purchaser shall have the use of such streets, and such conveyance is evidence tending to establish a dedication of the streets so referred to, if at the time of the deed the title in the beds of the streets was in the grantor.

P. B. & W. R. R. Co. v. M. & C. C., 124 Md. 635.

The city has no power to assess benefits which materially amount to more than the aggregate of damages and expenses, and it is the duty of the Commissioners for Opening Streets to deduct the excess, if they find such, *pro rata*.

Md. Trust Co. v. M. & C. C., 125 Md. 40.

## (5) FIRE.

P. L. L., (1860) Art. 4, secs. 29, 30, 236-238, 249. 1878, ch. 120.  
 1884, ch. 312. 1886, ch. 463. 1888, ch. 393. P. L. L., (1888) .  
 Art. 4, secs. 312-315C, 324, 328. 1894, ch. 190.

To establish and regulate fire wards and fire companies, and all matters pertaining to the prevention and extinguishment of fires. To appropriate a sum of money annually for the relief of disabled and superannuated firemen, for the relief of the widows and children of firemen who have been killed in the discharge of duty, and to provide by general ordinance for giving pensions to employees of the Baltimore Fire Department who may become unable to perform further service, by reason of age, or other physical or mental disabilities. To retire from office in the Fire Department any permanent or called member thereof who has become permanently disabled while in the actual performance of duty, or has performed faithful service in the department for a period of not less than twenty consecutive years, and placing the member so retired upon a pension roll, the amount of annual pension to each pensioner to be an amount equal to one-half the yearly amount then being received by him, for service in said department at the time of such retirement, per annum, payable in monthly installments. To appropriate annually such sums of money as shall be sufficient to pension all such members of the Fire Department as shall be upon the pension roll. To regulate the evil and pernicious practice of firing or discharging crackers within the limits of said city, either by prohibiting sale of the crackers or otherwise. To erect and provide magazines for the storage of gunpowder brought to the city and to compel the storage of same therein, and to regulate the price of said storage. To regulate the storage of naval stores and other combustible matter in such quantities or in such places in the city as may be deemed dangerous. To provide for the inspection of oils or fluids made from petroleum or its products, to be used for illuminating purposes, offered for sale in the City of Baltimore, and for the appointment of inspectors for that purpose, and to impose such fines and penalties as it may deem necessary and proper in the premises. To fix by ordinance the standard or flashing point of oils, or fluids made from petroleum or its products, used for illuminating purposes, and offered for sale in said city, and to provide for the inspection of the same, and for the appointment of inspectors for that purpose.

Where a municipality furnishes water gratuitously to be used in extinguishing fires it acts in a governmental capacity and is not liable for negligence in connection with its water works.

Wallace v. Baltimore, 123 Md. 638.



## (6) FISH.

To regulate the sale or disposition of fish within the limits of the City of Baltimore; to impose fines or penalties for the violation of any regulation it may establish.

## (7) FRUITS, MEATS, VEGETABLES AND OTHER ARTICLES.

P. L. L., (1888) Art. 4, sec. 646A. 1890, ch. 100.

To license and regulate the sale of fresh fruits, meats, vegetable and all other perishable articles in the City of Baltimore.

## (8) HARBOR, DOCKS AND WHARVES.

P. L. L., (1860) Art. 4, secs. 263, 264, 265, 266, 271, 272, 793, 794, 796, 944, 945. 1880, ch. 418. 1884, ch. 230. 1884, ch. 309. 1888, ch. 261. P. L. L., (1888) Art. 4, secs. 343, 344, 346-350, 355-357, 367-368. 1908, ch. 148. 1912, ch. 32. 1914, ch. 144.

To provide for the preservation of the navigation of the Patapsco River and tributaries, including the establishment of lines throughout the entire length of said Patapsco River and tributaries, beyond which lines no piers, bulkheads, wharf, pilings, structures, obstructions or extensions of any character may be built, erected, constructed, made or extended; to provide for improving, cleaning and deepening said river and tributaries, and the removal therefrom of anything detrimental to navigation or health; to provide for and regulate the stationing, anchoring and moving of vessels or other water craft, and to prevent any material, refuse or matter of any kind from being thrown into, deposited in or placed where the same may fall, or be washed, into said river or tributaries; to make surveys or charts of the Patapsco River and tributaries, and to ascertain the depth and course of the channels of the same; and when necessary in its judgment, to affix buoys or water marks for facilitating and rendering more safe the navigation thereof; to erect and maintain and to authorize the erection and maintenance of, and to make such regulations as it may deem proper, respecting wharves, bulkheads, piers and piling, and the keeping of the same in repair, so as to prevent injury to navigation or health; to regulate the use of public wharves, docks, piers, bulkheads or pilings, and to lease or rent the same, and to impose and collect dockage from all vessels and water craft lying at or using the same, and to collect wharfage and other charges upon all goods, wares, merchandise or other articles landed at,

shipped from, stored on or passed over the same; to provide for the appointment of such officers and employees as may be necessary to execute the foregoing powers and to impose fines or penalties for a breach of any ordinance passed in conformity herewith, said fine not to exceed two hundred dollars (\$200) for any one offence. Provided, however, that, except in regard to docks or wharves owned by the Mayor and City Council of Baltimore, nothing contained in this Act shall be construed to impose any duty upon the Mayor and City Council of Baltimore to any person or corporation using said river, or any of its tributaries, in regard to the safety thereof, or to render the said Mayor and City Council of Baltimore liable for any loss of life, or injury or damage to person or property, by reason of any obstruction in, or unsafe condition of, any part of said river, or of said tributaries or branches, or either of them. Nothing contained in this Act shall be so construed as to render the City of Baltimore, or any of its officers, liable in damage or otherwise to any person or persons, or corporations, for any omissions to pass any ordinance, regulation or resolution pursuant to the provisions hereof, or for a failure to enforce the same.

*Classen v. Chesapeake*, 81 Md. 258. *M. & C. C. of Balto. v. St. Agnes Hospital*, 48 Md. 419. *Harrison v. Sterrett*, 4 H. & McH. 540. *Girauds' Lessee v. Hughes*, 1 G. & J. 249. *Dugan v. Mayor*, 5 G. & J. 357. *Bernard v. Torrence*, 5 G. & J. 394. *Wilson v. Inloes*, 11 G. & J. 351. *Casey's Lessee v. Inloes*, 1 Gill 430. *Mayor, etc. v. White*, 2 Gill 444. *The wharf case*, 3 Bland 361. *Baltimore v. McKim*, 3 Bland 453. *Hammond's Lessee v. Inloes*, 4 Md. 138. *Patterson v. Gelston*, 23 Md. 443. *Broadway, etc. Co. v. Hankey*, 31 Md. 346. *Page v. Mayor*, 34 Md. 558. *Garritte v. Mayor*, 53 Md. 422. *McMurray v. Mayor*, 54 Md. 103.

Actional negligence cannot be imputed to the city for mistake of judgment, or even negligence, of its officers in performing governmental function of selecting a place for the loading of explosives, from which it derives no profit.

*Foard Co. et al. v. State of Md. etc.*, 219 Fed. Rept. 827.

The one subject of an act being the charter powers and obligations of the city, an act repealing and re-enacting several sections of the City Charter is not invalid under Section 29 of Article 3 of the State Constitution.

*Foard Co. et al. v. State of Md. etc.*, 219 Fed. Rept. 827.

## (9) HEALTH.

P. L. L., (1860) Art. 4, sec. 797. 1886, ch. 396. 1890, ch. 509.

P. L. L., (1888) Art. 4, secs. 378 and 400.

To preserve the health of the city. To prevent and remove nuisances. To prevent the introduction of contagious diseases within the city, and within three miles of the same upon land.

and within fifteen miles thereof upon the navigable waters leading thereto. To regulate the places of manufacturing soap and candles, the erecting of slaughter houses and distilleries, and where every other offensive trade may be carried on. To regulate the construction, care, use and management of tenement houses, lodging houses and cellars in the City of Baltimore, for the better protection of the lives and health of the inmates dwelling therein.

Harrison v. Mayor, &c., 1 Gill 264. Mayor v. Brannan, 14 Md. 227. N. C. Ry. Co. v. Baltimore, 21 Md. 105. Altvater v. Baltimore, 31 Md. 466. Mayor, &c., v. Radecke, 49 Md. 217. Boehm v. Mayor, &c., 61 Md. 259. State v. Mott, 61 Md. 297. Deems v. Mayor & C. C. of Balto., 80 Md. 170. Cochran v. Frostburg, 81 Md. 54. Hagerstown v. Witmer, 86 Md. 293. Balto. v. Fairfield Improvement Company, 87 Md. 352.

### **Decisions Defining the Powers of a Municipal Corporation in Relation to Public Health, Safety and Similar Police Powers.**

#### HEALTH ORDINANCES.

*Power of Municipal Corporation to pass same.* It is not for Courts of Justice to say that a given enactment passed by the Legislature in virtue of the police power, and having a direct relation to it is void for unreasonableness; but whenever power has been delegated by the Legislature to a municipal corporation to adopt and promulgate ordinances for the protection of the public health, morals or safety, the reasonableness of the measures enacted by the municipality is a feature to which the courts look to see whether the measure is within the power granted.

State v. Hyman, 98 Md. 618.

#### INFECTIOUS AND CONTAGIOUS DISEASES.

*Small Pox.* Expenses of Disinfection.

See, Harrison v. Mayor, 1 Gill 264.

#### NUISANCES GENERALLY.

There is no prescriptive right to maintain a public nuisance.

P. W. & B. R. R. Co. v. State, 20 Md. 157. N. C. Ry. Co. v. Baltimore, 21 Md. 105.

As to duty of City to prevent public nuisances, see,

Mayor v. Brannan, 14 Md. 227.

A private individual cannot maintain an action for damages resulting from a public nuisance unless he suffers some special injury. The remedy is by indictment.

Harrison v. Sterrett, 4 H. & McH. 550.

A municipal corporation, without any general laws, either of the City or of the State, within which a given structure can be shown to be a nuisance, cannot by a mere declaration that it is one, subject it to removal by any person supposed to be aggrieved, or even by the city itself.

New Windsor v. Stocksdale, 95 Md. 215.

The municipality cannot, by merely declaring a structure over a dedicated alley not yet occupied by it, a nuisance, remove the same, but the fact that it was a nuisance should have been first established before a court of competent jurisdiction.

Frostburg v. Hitchins, 99 Md. 617.

*Particular Nuisances.*

*Bawdy House.* A bawdy house is a public nuisance which may be enjoined if a continuing nuisance and in addition a suit for damages will lie for the depreciation of property resulting from its maintenance.

Hamilton v. Whitridge, 11 Md. 143.

*Bridge.* When a defective bridge may be a nuisance,—

See, P. W. & B. R. R. Co. v. State, 20 Md. 157.

*Buildings.* A dilapidated building or wall, menacing the users of the street, is a nuisance.

Murray v. McShane, 52 Md. 217.

*Cattle running at Large, See,*

Cochrane v. Frostburg, 81 Md. 54.

*Cess-pools in Towns. See,*

Sprigg v. Garrett Park, 89 Md. 410.

*Coasting in Streets or on Sidewalks.* When a nuisance which city is bound to prevent; see,

Altwater v. Mayor, 31 Md. 466. Taylor v. Cumberland, 64 Md. 68.

*Dogs Running at Large.* Validity of ordinances providing for killing of same sustained.

City of Hagerstown v. Witmer, 86 Md. 293.

*Drains.* Overflow from drains flooding lands, see,

Guest v. Commissioners of Church Hill, 90 Md. 689.

*Elevated Structures.* Not necessarily a public nuisance, see,

Garrett v. Lake Roland Elv. R. R. Co., 79 Md. 286.

*Fertilizer Factory.* When a nuisance. Prescriptive right where plaintiff "came to the nuisance," discussed.

Susquehanna Fertilizer Co. v. Malone, 73 Md. 268.

*Ice on Footways.* Duty and liability of municipality arising therefrom discussed.

Baltimore v. Marriott, 9 Md. 174.

*Lime Kilns.* A particular use of property declared a nuisance by an ordinance of a municipal corporation, did not make such use a nuisance, unless it be so in fact, according to the common law or statutory definition of a nuisance.

State v. Mott, 61 Md. 259.

*Livery Stable.* Declared not to be a nuisance *per se*, but may become so by its construction or use.

Commissioners of Easton v. Covey, 74 Md. 262. Metropolitan Savings Bank v. Manion, 87 Md. 68. Gallegher v. Flury, 99 Md. 187.

A stable for horses is not a nuisance *per se*, and the erection of one will not be enjoined merely because it may become one from the way it may be managed.

King v. Hamill, 97 Md. 107.

*Markets.* Duty of City to prevent nuisances in markets. Hole in market place.

Mayor v. Brannan, 14 Md. 227.

*Navigable Waters.* Obstruction of navigable waters of Patapsco by deposits of mud and sediments.

Garritte v. M. & C. C. of Baltimore, 53 Md. 422.

*Noxious Gases from Fertilizer Factories, see,*

Fertilizer Co. v. Spangler, 86 Md. 562.

*Obstructions in Public Streets,* constitute a public nuisance and the remedy is by indictment.

Fort v. Graves, 29 Md. 188. Houck v. Wachter, 34 Md. 265.

*Offensive Trades.* Rules for determining when they constitute a nuisance.

Horner v. State, 49 Md. 277.

As to whether noises, smell and the like physical discomforts arising from the prosecution of a commendable and necessary trade or business will be treated as constituting a nuisance, *see*,

Gibbons v. Becker, Daily Record, February 21, 1893. *Cf.*, Berge v. Baltimore Cemetery Co., Daily Record, October 26, 1889.

*Pest Houses.* Leprosy, when a nuisance, *see*,

Baltimore City v. Fairfield Imp. Co., 87 Md. 352.

*Privies.* When a nuisance, *see*,

Boehm v. Baltimore, 61 Md. 259.

Authority of State Board of Health to compel installation of sewers in various counties of State and in Baltimore City.

Welch, et al. v. Cogan, et al., Daily Record, April 21, 1915.

*Shade Trees.* Not removable by a municipal corporation unless they constitute a nuisance.

Frostburg v. Wineland, 98 Md. 239.

*Slaughter Houses.* Blood, offal and refuse from slaughter houses let into a mill race rendering water offensive and impure constitute a public nuisance.

Woodyear v. Henry Schaefer, 57 Md. 1.

*Smoke, Noxious Vapor, etc.* Smoke, noxious vapor, noise and vibration productive of active physical discomfort and rendering one's habitation unfit and unsafe is a nuisance, though the business may be lawful.

Dittman v. Repp, 50 Md. 516.

*Smoke, Noise, Vibration.* Smoke, steam and cinders from a chimney; when a nuisance, *see*,

Lurssen v. Lloyd, 76 Md. 360. Euler v. Sullivan, 75 Md. 616.

*Steam Boiler.* Not a nuisance *per se*. An ordinance committing to an official the power to declare a steam boiler a nuisance and to demand its removal without a provision to determine whether it is a nuisance in fact, is void.

Baltimore v. Radeeke, 49 Md. 217.

*Toll Gate.* A toll gate upon a highway unauthorized is a public nuisance.

Schall v. Nusbaum, 56 Md. 512.

## (10) HOSPITALS.

P. L. L., (1860) Art. 4, sec. 31. P. L. L., (1888) Art. 4, sec. 409.

To erect or establish houses of correction, almshouses, reformatories, hospitals or pest-houses, within or without the city, if necessary, and make all regulations for the government of the same.

Baltimore City v. Fairfield Imp. Co., 87 Md. 352.

## (11) INSPECTIONS.

P. L. L., (1860) Art. 4, secs. 28, 942, 943. P. L. L., (1888) Art. 4, secs. 425-427. 1894, ch. 53. 1896, ch. 273.

To establish and regulate inspections within the city. To make the standard of weights and measures the same in the City of Baltimore as in the rest of the State, and enforce the

same by inspection. To regulate and fix the assizing of bread. To provide by ordinance for the proper inspection of milk or any and all other food products offered for sale in the City of Baltimore or intended for consumption therein; to make and from time to time to alter such regulations in regard to the sale of milk or any or all other food products as to it may seem necessary to protect the public health; and to provide by fine of not more than one hundred dollars for each offense for the punishment of violations against such regulations and ordinances; to provide for such number of inspectors or analysts as it may deem necessary, and to fix their duties and compensation, and from time to time change the number, duties and compensation of said inspectors and analysts. To provide by ordinance for the proper inspection of all bakeries, bake shops, candy factories, confectioneries, or other places for the manufacture of bread, cakes, confectionery and similar food products, for the purpose, more especially, of ascertaining their sanitary condition and cleanliness, and for the purpose of ascertaining the purity, healthfulness and wholesomeness of the flour, sugar, butter, lard and other ingredients used in making such bread, cakes, confectionery and other articles of food offered for sale in the City of Baltimore, or intended for consumption therein; to make and from time to time alter such regulations or ordinances in regard to the sale of said food products as to it may seem necessary to protect the public health, and to provide by fine of not less than twenty dollars nor more than one hundred dollars for each offense for the punishment of violations against such regulations and ordinances; to provide for such number of inspectors and analysts as it may deem necessary, and to fix their duties, qualifications and compensation.

State v. Broadbelt, 89 Md. 565.

As to power to regulate inspection of milk, *see*,

Deems v. Mayor & C. C. of Balto., 80 Md. 164.

## (12) JAIL.

1868, ch. 3. P. L. L., (1888) Art. 4, sec. 536.

To own, regulate and control the Jail of Baltimore City.

## (13) JONES' FALLS.

1864, ch. 163. 1870, ch. 115. 1870, ch. 113. P. L. L., (1888) Art. 4, secs. 574-578, 581, 582.

To make such improvements in connection with Jones' Falls as in its judgment are desirable, and for this purpose to change the course, lines and boundaries of said stream, in whole or

part; to widen and deepen the same; to lay out and construct on the sides and adjacent to said stream, streets, avenues and wharves; to construct all such sewers and drains in said city as shall be deemed requisite in connection with said improvement; and generally to do all such things, and exercise all such powers, as, in its judgment, shall be necessary to be done and exercised for the accomplishment of any plans for the improvement of Jones' Falls which have been or may be adopted by it. To have power at any time to acquire all property of every kind and description which may be necessary or advisable, in its judgment, to acquire, for the accomplishment of the purposes mentioned, and shall moreover have full power to provide for the ascertainment of the value of all property and rights of property which it is thus authorized to acquire, and to ascertain whether any and what amount, in value, of damages will be caused by the construction of the aforesaid works of improvement in connection with Jones' Falls, or any of them, to the owner or possessor of any property, or rights of property, within the said city, for which the owner or possessor ought to be compensated, and to ascertain what amount of benefits will be caused by the construction of the aforesaid works of improvement, or any of them, to the owner or possessor of any property or rights of property, for which said owner or possessor ought to pay a compensation, and to provide for assessing or levying, either generally on the whole assessable property of the city, or especially on the property of persons benefited, the whole or any part of the damages and expenses which it shall be ascertained will be incurred in constructing such works in connection with the improvement of Jones' Falls, as it has determined or shall determine to make. To provide for granting appeals to Baltimore City Court from the decision of any Commissioners, or other persons appointed by virtue of any ordinance, to ascertain the value of the property which the city may wish to acquire for the purposes aforesaid, or the damages which will be caused, or the benefits which will accrue, by the construction of the aforesaid works of improvement, and to secure to every owner or possessor of any property, or right of property, which it may thus purpose to acquire, or which may thus be decided to be damaged or benefited, the right on application within a time to be prescribed by ordinance, to have decided by a jury trial, the true value of the property proposed to be acquired for the purposes aforesaid, and whether any and what damage will be caused, or any and what benefits will accrue to the owner or possessor of the property so assessed for damages or benefits

respectively, and to provide for collecting and paying over the amount of compensation adjudged to each person entitled, or invest it in the stock of the said city, for the use of the person so adjudged to be entitled to the same, and to provide for collection, by the sale of the property assessed, or otherwise, of all sums assessed as benefits aforesaid, and generally to enact and pass all ordinances, from time to time, which shall be deemed necessary and proper to exercise the powers and effect the objects for the exercise and accomplishment of which this paragraph of this section is passed. To define and locate the limits of Jones' Falls within the City of Baltimore, and to acquire by purchase or condemnation, under proceedings for which provision is made in this Article, the absolute and exclusive right and title to all the land and rights of property embraced within the said limits, and in the ground covered by all streets or avenues which it may lay out and condemn on the sides of the stream, and it shall have an estate in fee simple in the same. It shall have power and is authorized to construct wharves or quays along the margin of said stream, or use the said streets or avenues for wharf or quay purposes, and collect tolls or wharfage from all vessels or boats using the same. To make such changes in the grades of the streets in the City of Baltimore as shall, in its judgment, be necessary for the proper construction of works connected with the improvement of Jones' Falls, which it may determine to construct, and it shall not be necessary, in order to make such changes in the grades of streets, to obtain the consent of any of the proprietors of the ground fronting on said streets, or affected by such changes. To make such provisions as it shall deem best for defraying the cost of grading and paving of any streets or avenues which it may lay out and condemn along the margin or side of Jones' Falls. To issue bonds to an amount not exceeding two million five hundred thousand dollars, from time to time, as the same may be required in the course of the construction of the works connected with the improvement of Jones' Falls, for the construction of which provision is made by the ordinance of the Mayor and City Council of Baltimore, entitled "An ordinance to provide for the improvement of Jones' Falls within the limits of the City of Baltimore, and to open avenues and construct sewers on the borders thereof," the said bonds to be issued in sums of not less than one hundred dollars each, redeemable in thirty years, and bearing interest at 6 per cent. per annum, payable quarterly, transferable as other city bonds, as provided in sections one and two of an ordinance of the Mayor and City Council of Baltimore, entitled



“An ordinance to authorize the issuing of bonds of the City of Baltimore, for the purpose of providing means for the improvement of Jones’ Falls,” approved January 31, 1870; provided that said bonds shall not be issued unless the last mentioned ordinance shall be approved by the votes of a majority of the legal voters of the said city, east at the time and places provided for in the last mentioned ordinance. To 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 its 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 whenever it may deem necessary, to compel 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 limits of the City of Baltimore; 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, the said city may cause the same to be done, and it is authorized and empowered to recover the cost of such wall, rebuilding or repairing, by suit at law, from the party 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.

*M. & C. C. of Baltimore v. Lefferman*, 4 Gill 425. *Merrick v. Mayor*, 43 Md. 219. *Mayor, etc., v. Musgrave*, 48 Md. 272. *Gregg v. Mayor*, 56 Md. 256. See *Norwood v. Baker*, 172 U. S. 83.

In *Lefferman’s* case above cited, it was held that Act 1821, ch. 252 on same subject was unconstitutional, because it imposed the whole expense of a public improvement on the individual immediately benefited.

But all the expense of constructing sidewalks may be imposed on abutting property.

*Hyattsville v. Smith*, 105 Md. 318. *Bassett v. Ocean City*, 118 Md. 114. *Chicago v. Janesville*, 28 L. R. A. (New Series), 1125 and notes.

See Act 1910, ch. 110, quoted in secs. 826p., 826q., 826r., 826s. and 826t.

#### (14) LICENSES.

P. L. L., (1860) Art. 4, sec. 27. 1878, ch. 414. 1888, ch. 495.

P. L. L., (1888) Art. 4, secs. 654, 657, 658, 664.

To license, tax and regulate all businesses, trades, avocations or professions. To license, regulate, tax or suppress hawkers, peddlers, brokers, pawnbrokers, intelligence offices, street exhibitions or fortune-tellers.

State v. Applegarth, 81 Md. 293. Salfner v. State, 84 Md. 301. Cambridge v. Water Co., 99 Md. 501.  
See cases under "Markets."

## (14a) LIBRARIES.

1908, ch. 144.

The Mayor and City Council of Baltimore is authorized and empowered to appropriate and pay over such sum or sums, as it shall from time to time deem proper, for the equipment, maintenance or support of the Enoch Pratt Free Library of Baltimore City, or of any other free public library in Baltimore City, or of the branches of the Enoch Pratt Library of Baltimore City, or of any other free public library in Baltimore City, provided, that the title or ownership of the property of every such library or branch is vested in the said Mayor and City Council of Baltimore.

## (15) MARKETS.

P. L. L., (1860) Art. 4, secs. 631, 635, 638, 639, 640, 651. P. L. L., (1888) Art. 4, secs. 671, 675, 678, 679, 680, 691.

To erect, regulate, control and maintain markets and stalls within the City of Baltimore, and to regulate and control the sale of all goods, wares, merchandise and other articles therein. To lease, sell or dispose of any stalls or stands in any market, in such manner and upon such terms as it may think proper. To contract for, purchase, lease and hold to it and its 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 for the purpose of extending same. To condemn any land or other property or any interest in land or other property for market purposes in the mode provided in this Article. To levy and collect all costs, damages and expenses incurred by the condemnation proceedings aforesaid. The clerks of the markets shall have full power and authority to seize by distress any meats, vegetables or other articles upon any stall or stand in the market-houses of the City of Baltimore, if the person or persons owning such stall or stand shall not pay the rent due thereon, and they shall also collect all fines and forfeitures imposed by this Article or ordinances relating to markets, and account for the same to the Mayor and City Council of Baltimore. To levy and collect all the costs, damages and expenses awarded in any condemnation proceedings provided for in this Article, for the extension or construction of any market or markets in the City of Baltimore.

State v. Rowe, 72 Md. 548.

Mayor v. Brannan, 14 Md. 227. Hatch v. Prendergast, 15 Md. 251. Musgrave v. Staylor, 36 Md. 124. Rose v. Mayor, 51 Md. 256. Border State Savings Bank v. Wilcox, 63 Md. 525. Green v. Western Nat. Bank, 86 Md. 290. Pfefferling v. Balto. City, 88 Md. 475. Cambridge v. Water Co., 99 Md. 503. See Baltimore City Code (1879), page 622, note.

*Market Stalls.* The right to lease the stalls and stands in any market in any manner, and for any term they may think proper is an exercise of municipal powers not in express terms, nor by fair or reasonable intentment, conferred upon the Mayor and City Council of Baltimore by sections 671 and 678 of Article 4, Code Public Local Laws (now sec. 6, title "General Powers," sub-title "Markets," of the City Charter).

M. & C. C. of Balto. v. Grieves, Daily Record, September 14, 1892.

Since new Charter giving right to license, tax and regulate no objection to license or tax that it produces more money than needed for regulation.

Meushaw v. State, 109 Md. 84. City v. Wollman, 123 Md. 310.

City may permit part of the street to be used for market stalls.

State v. Burkett, 119 Md. 609.

Right to use and occupy a market stall is an easement which may be transferred by Bill of Sale.

Goldberg v. Novichow, 113 Md. 29.

City has power to regulate the charges for market stalls. Is an administrative and not a legislative function. The regulation must not impair the obligations fixed by contract.

Baltimore v. Wollman, 123 Md. 310.

## (15A) MUNICIPAL FERRY.

1912, ch. 32.

To establish, own and operate a municipal ferry across the northwest branch of the Patapeseo River from some point or points on the north side thereof to some point or points on the south side thereof, and to acquire for that purpose, by purchase, condemnation or otherwise any boats or ships, landings or other property that may be necessary for that purpose, and to fix the ferry rates or charges thereof.

## (16) PARKS.

1862, ch. 29. P. L. L., (1888) Art. 4, sec. 705. 1896, ch. 366.

To establish, maintain, control and regulate parks or squares in the City of Baltimore, for the recreation and benefit of its citizens. The resolution of the Mayor and City Council of Baltimore, appointing a commission in relation to the proposed public parks, approved June 4, 1860, and the ordinance of the Mayor and City Council of Baltimore, to provide for a public park or parks, approved June 21, 1860, are confirmed; and all acts done, or which may hereafter be done, by the said Mayor and City Council of Baltimore, or the officers of said city, or the

Park Commission acting under the provisions of the said resolution and ordinance, shall have the same effect as if the said Mayor and City Council of Baltimore, prior to the passage of said resolution and ordinance, had been expressly empowered, by Act of the General Assembly, to enact a resolution and ordinance in the precise terms of said resolution and ordinance, and to provide for carrying the same into effect. All the rights, privileges and authority heretofore granted by ordinance, to the Park Commission, are hereby transferred to the Board of Park Commissioners as constituted in this Article. The Board of Park Commissioners be and hereby is authorized and empowered, upon and immediately after the execution and delivery, by the owners thereof, of the deed hereinafter referred to, to the Mayor and City Council of Baltimore, to assume exclusive jurisdiction and control over the public highway known as Green Spring Avenue Road, extending from the north entrance of Druid Hill Park, through parts of Baltimore City and parts of Baltimore County, to the Western Run bridge in Baltimore County, with full power in said Board of Park Commissioners to regulate the use of the said Green Spring Avenue Road as a highway, and to prescribe the hours when and the manner in which manure carts, hay wagons and all or any other description of vehicles may use the same, and to prescribe fines and penalties for the violation of such regulations, in the same manner as it prescribes fines and penalties for violations of the public park regulations. The owners of said Green Spring Avenue Road are hereby authorized to grant, and the Mayor and City Council of Baltimore are hereby authorized to accept from said owners, a good and sufficient deed for the bed of said road, subject to the rights of the adjacent property-holders to use the same as a highway. From and immediately after the acceptance by the Mayor and City Council of Baltimore, of the deeds mentioned above, all obligation and duty upon the part of either the owners of said Green Spring Avenue Road or of the public authorities of Baltimore County, to keep or maintain said road in repair, shall cease, and from and immediately after said time, the sole obligation to keep and maintain said road-bed in repair, shall rest upon the Mayor and City Council of Baltimore. The Board of Park Commissioners, as herein provided for, shall have all the rights, powers and authority as are specifically set forth in this paragraph of this section and elsewhere in this Article, and all rights, powers and authority are hereby granted to the Mayor and City Council of Baltimore to make such other and further rules and regulations as it may deem proper for

the maintenance of all parks and squares within the City of Baltimore not inconsistent with this Article.

Mayor & C. C. of Baltimore, v. Reitz, 50 Md. 574. Upshur v. Baltimore City, 94 Md. 778. See notes, Baltimore City Code, (1879 pp. 677-678 and 683).

The park fund under existing laws is to be applied to park purposes only and to be expended and distributed for such purposes by the Board of Park Commissioners.

Baltimore v. Williams, 124 Md. 502.

### (17) POLICE.

To appropriate a sum of money annually for the relief of disabled and superannuated members of the police force of Baltimore City, and for the relief of widows and children of policemen who may be killed in the discharge of duty.

### (18) POLICE POWER.

P. L. L., (1860) Art. 4, sec. 32. P. L. L., (1888) Art. 4, sec. 721.

To pass ordinances for preserving order, and securing property and persons from violence, danger and destruction, protecting the public and city property, rights and privileges from waste or encroachment, and for promoting the great interest and insuring the good government of the city. To have and exercise within the limits of the City of Baltimore all the power commonly known as the Police Power to the same extent as the State has or could exercise said power within said limits. 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 exercise of the powers of the Board of Police of the City of Baltimore, heretofore created, nor shall the said city, or any officer or agent of the 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.

Mayor *ex rel.* v. Police Board, 15 Md. 455. Shafer v. Mumma, 17 Md. 331. Boehm v. Baltimore, 61 Md. 259. State v. Mott, 61 Md. 297. Singer v. State, 72 Md. 467. State v. Rowe, 72 Md. 551. Trageser v. Gray, 73 Md. 250. Lake Roland, etc. R. R. Co. v. Balto., 77 Md. 352. Deems v. Mayor & C. C. of Baltimore, 80 Md. 173. M. & C. C. of Balto. v. Turnpike Co., 80 Md. 536, 545. Cochrane v. Frostburg, 81 Md. 54, 65. Hagerstown v. Wittmer, 86 Md. 293. Bear Creek Co. v. Balto. City, 87 Md. 94. Balto. City v. Cowen, 88 Md. 447. Poole v. Falls Road, etc. Co., 88 Md. 533. Upshur v. Balto., 94 Md. 751. Bostock v. Sams, 95 Md. 414, 415. Frostburg v. Hitchins, 99 Md. 627.

City may regulate height of buildings.

Cochran v. Preston, 108 Md. 221. Martin v. District, 205 U. S. 139.

Moving picture machines may be regulated.

State v. Loden, 117 Md. 373.

City must pass ordinance to prevent nuisances or obstructions in the street, but is not responsible for the failure of the Police Department to enforce them.

Taxi Cab Company v. Baltimore, 118 Md. 359.

Reasonable segregation Ordinance not interfering with vested rights is within the police power.

State v. Gurry, 121 Md. 535. 47 L. R. A. New Series, 1087.

Statute may regulate hours of labor for laborers employed by contractors on city work.

Sweeten v. State, 122 Md. 635. Elkan v. State, 122 Md. 642.

Regulations concerning removal of garbage and offal are valid exercise of the police power.

Wm. R. Schultz v. State of Maryland, 112 Md. 211.

Power to pass ordinance providing additional penalty for offense punishable under State law. Validity of ordinance imposing a different penalty for sale of cocaine. Invalidity of a provision for forfeiture of license not affecting remainder of ordinance.

Rossberg v. State, 111 Md. 394.

Whatever police power can be exercised by a municipal corporation over the rights and property of its citizens must be derived from the legislature; it must be expressed by grant or fair and reasonable intendment.

United Railways Co. v. State Roads Commission, 123 Md. 561.

### (19) PEDDLERS.

1878, ch. 414. P. L. L., (1888) Art. 4, sec. 657. 1892, ch. 90.

The Mayor may grant permits, upon the payment of the sum of seven dollars to the Comptroller, to such number of poor persons as to him may seem proper, to peddle within the limits of the City of Baltimore, notions, and small wares without a license; provided, that the stock in trade of such peddler shall not exceed twenty-five dollars in value, and the said Mayor at any time may revoke any such permit.

Banks v. McCosker, 82 Md. 519.

### (20) PUMPS, FOUNTAINS AND SPRINGS.

P. L. L., (1860) Art. 4, sec. 823. P. L. L., (1888) Art. 4, sec. 936.

To erect and regulate pumps, fountains and springs, in the streets, lanes and alleys of the City of Baltimore.

### (21) RAILROADS.

P. L. L., (1860) Art. 4, sec. 856. P. L. L., (1888) Art. 4, sec. 762.  
1894, ch. 210.

On application or assent, in writing, of the owners of the major part in extent of the front feet of the lots fronting on each side of any street, or part of street, to pass, subject to the provisions and requirements of sections 37 and 85 of this Article,

such ordinances as shall be necessary for the construction of any track or railway of a steam railroad on and along such street; to 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 lots fronting on such street, or part of street, or on the owners of such lots, their just proportion of the expense of such construction, and enforce payment thereof; provided, notice be given to such owners before said assessment is made, with the right to a hearing as to the propriety of the same, and the further right of a jury trial by appeal to the Baltimore City Court, and the proprietor of any lot in front of which any such railway shall be so constructed, and the just proportion of which shall be paid by him, shall be entitled, at his own expense, to have a convenient siding or turn-out made, to enable him to have the beneficial use of such railway. The city may, whenever the public interests require, revoke the privilege granted to such railroad to use said street or part of a street, upon the payment to such railroad of the actual cost of construction of said railway tracks, and upon such revocation and payment aforesaid, the said railroad shall remove all its tracks from said street. To require street passenger railways to provide proper fenders to their cars for the protection of human life and to lessen the danger thereto arising from collisions with such cars, and to enforce said requirements by such fines and penalties as may be prescribed by ordinance. To regulate the use of the streets by street railways.

N. C. R. R. Co. v. Mayor, 21 Md. 93. N. C. Ry. Co. v. M. & C. C. of Balto., 46 Md. 425. Hodges v. Balto. P. Ry. Co., 58 Md. 603. N. Balto. R. R. Co. v. N. Avenue R. R. Co., 75 Md. 233. N. Balto. Pass. R. R. Co. v. Baltimore, 75 Md. 247. Lake Rol. El. R. R. Co. v. Baltimore, 77 Md. 352, 384. Lake Roland, etc. Co. v. Webster, 81 Md. 529. Park Tax Case, 84 Md. 1. Poole v. Falls Road Ry. Co., 88 Md. 536, 538. United Rys. & Elec. Co. v. Hayes, 92 Md. 490.

As to general law limitation to right of railroads to pass through the City of Baltimore.

W. M. Tidewater R. R. Co. v. Leonard, Daily Record, June 15, 1903.

A street railway has no paramount right to own its own tracks and a grant of the right to lay such tracks is subject to the paramount right of the city to interfere with the same.

City & Suburban Ry. Co. v. Brush Elec. Co., Daily Record, December 20, 1895.

In connections with powers under this sub-title, *see also*,

O'Brien v. Balto. Belt R. R., 74 Md. 374. Ches. & Pot. Tel. Co. v. McKenzie, 74 Md. 48. Koch v. N. Av. R. R. Co., 75 Md. 222. Balto. City v. Balto. Trust & Guar. Co., 166 U. S. 673. Green v. City & Suburban Ry. Co., 78 Md. 294. Garrett v. Lake Rol. El. R. R. Co., 79 Md. 277. Birch v. Lake Rol. El. R. R. Co., 83 Md. 369. Lake Rol. El.

R. R. Co. v. Hibernian Society, 83 Md. 420. Hooper v. Balto. City Pass. Ry. Co., 85 Md. 509. Baltimore v. Cowen, 88 Md. 454. Central Ry. Co. v. P. W. & B. R. R., 95 Md. 439.

## (22) SCHOOLS.

1872, ch. 377. 1884, ch. 2. P. L. L., (1888) Art. 4, secs. 776, 778, 779.

To establish in the City of Baltimore, in conformity with the provisions of this Article, a system of free public schools, which shall include a school or schools for manual or industrial training. To pass all ordinances for the protection of school houses and property, and to punish any person that may disturb the sessions of the public schools. To levy and collect, upon the assessable property in the City of Baltimore as other taxes are levied and collected, such amount of taxes as may be necessary to defray all expenses incurred for educational purposes.

School Commissioners v. Board of Education, 26 Md. 505. St. Mary's Industrial School v. Brown, 45 Md. 310. M. & C. C. of Balto. v. Weatherby, 52 Md. 442. Hooper v. New, 85 Md. 565. Clark v. Md. Institute, 87 Md. 643. Baltimore City v. Lyman, 92 Md. 591.

Compare with provisions of Code P. G. L., Art. 77, sections 116-119.

## (23) SEWERS.

P. L. L., (1860) Art. 4, sec. 835. 1868, ch. 181. P. L. L., (1888) Art. 4, secs. 792 and 794. 1906, ch. 144.

To provide for construction, opening, enlarging or straightening, subject to the provisions herein contained as to the Board of Public Improvements and Board of Estimates, any sewer or drain, public or private, through any private property. To pave and keep in repair, subject to the provisions herein contained as to the Board of Public Improvements and Board of Estimates, all necessary sewers and drains and to pass all regulations necessary for the preservation of the same, and to authorize any person appointed by it or by the Commissioner of Health or by the City Engineer, as hereinafter provided, for that purpose, to enter upon the lands, grounds or possessions of any person or body politic, through which the common sewers or private sewers or drains run or may run, to examine, inspect, regulate, make or repair the same, such person, when not otherwise appointed by it to be appointed by the Commissioner of Health, if the sewer or drain be a private sewer or drain, though connected with a public sewer, so far as said private sewer or drain shall be upon private property, and to be appointed by the City Engineer for all other sewers or drains; and in the case of private sewers or drains, the regulations, making or repairing of the same to be at the expense of the owners of the property, real



or leasehold, served by said sewers or drains, and with power also to make any and all costs and expenses incurred in or about the regulation, making or repairing of private sewers or drains a lien upon the interests of the owners in the real or leasehold property served by said sewers or drains, with power also to provide for the enforcement of such liens by sale of the property whether real or leasehold; to condemn any land or interest in land in the mode provided in this Article for the use of the Mayor and City Council of Baltimore in the construction of any sewers or sewerage system; to inspect and regulate house drainage and sewerage connections, and to prescribe the kind and quality of material to be used for such purposes. But all work done in making, repairing or altering within private property, that is, not in any public street, public lane, public alley or public property, any private sewer or drain or waste or ventilating pipe connecting with a sewer, either public or private, shall be done under the supervision of the Inspector of Plumbing of said city under the direction of the Commissioner of Health and under a permit from the Commissioner of Health or his authorized assistant, to be issued only to any person duly qualified to do such work under said Article 4 of the Public Local Laws of Maryland, said permit to be issued in accordance with any ordinances now existing or which may hereafter be passed by the Mayor and City Council of Baltimore not in conflict herewith, or in accordance with any rules which may be adopted by said Commissioner of Health not in conflict herewith or with such ordinances. No other permit from any other officer whatever shall be required for said work and no charge shall be made by the Commissioner of Health for said permit or for inspecting the work done thereunder. No charge shall be made by the City Engineer or any other officer for inspecting any work in the public streets, public lanes or public alleys of said city done in connection with private sewers or house drains.

*Kirby v. Citizens Ry. Co.*, 48 Md. 168. *Kranz v. Mayor*, 64 Md. 491. *Hitchins v. Frostburg*, 68 Md. 108. *Chesapeake & Potomac Tel. Co. v. McKenzie*, 74 Md. 48. *Baltimore City v. Schnitker*, 84 Md. 43. *Baltimore City v. Cowen*, 88 Md. 447. *Cahill v. Baltimore City*, 93 Md. 233.

*See also*, *Short v. B. P. C. Ry. Co.*, 50 Md. 73. *P., W. & B. R. R. Co. v. Davis*, 68 Md. 281. *Frostburg v. Duffy*, 70 Md. 47. *Hitchins v. Frostburg*, 70 Md. 57. *Lion v. B. C. P. Ry. Co.*, 90 Md. 266. *Guest v. Commissioners Church Hill*, 90 Md. 689.

City not liable for failure to make improvements recommended by its officers. Evidence admissible to prove whether a sewer is of sufficient capacity to carry off water in seasons of ordinary rainfall. City not compelled to grade, pave and place gutters so as to prevent property being flooded by water when private parties change the configuration of adjacent land not belonging to the city.

*Kurrle v. M. & C. C.*, 113 Md. 63.

A plaintiff cannot recover otherwise than according to the allegations of his declaration, and a prayer based on other facts is improper. Negligence. Recovery cannot be had upon testimony as to conditions appearing sixteen months later, in the absence of all testimony as to how the work had been done.

Baltimore v. Stalfort, 123 Md. 269.

## (24) SQUARES, SPRINGS AND MONUMENTS.

1892, ch. 349.

P. L. L., (1888) Art. 4, secs. 799D, 799E, 799F.

To establish, regulate and control all squares, springs and monuments erected or constructed within the City of Baltimore, and to provide for the maintenance of same. To provide by ordinance for the purchase or condemnation of all that land lying in the City of Baltimore between the lines of Dolphin street on the north, Biddle street on the south, Jordan Alley on the east, and Morris Alley on the west, or so much thereof as may be necessary, upon a proper survey, to extend the line of parking known as Eutaw Square from Dolphin street to Biddle street, and the driveways on each side thereof; and to provide for the assessing and levying on the whole assessable property of the said city, or on the property of persons thereby benefited, the whole or any part of the damages and expenses which may be incurred in acquiring said land, and in locating and laying out the said line of square; and to provide for the granting of appeals to the Baltimore City Court, from the decisions of the Commissioners for Opening Streets or any Commissioners, or other persons, appointed by authority of any ordinance to ascertain the damages which will be caused or the benefits which will accrue to the owners or possessors of ground, or improvements in acquiring said land, and in locating, laying out and extending said square from Dolphin street to Biddle street, 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; and to provide for collecting and paying over the amount of compensation adjudged to each person entitled, or investing it in stock of said city, 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 part of the land lying within the said lines shall be taken. Before the said city shall pass any ordinance under the above provisions, at least sixty days' notice shall be given of any application for the passage of such ordinance, in at least two daily papers in said city; and before the

Commissioners for Opening Streets or any Commissioner or Commissioners appointed by any ordinance under the above provisions shall proceed to the performance of his or their duty, he or 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 he or they propose to act, at least thirty days before the time of their first meeting to execute the same.

(25) STOCKS, LOANS AND FINANCE.

P. L. L., (1860) Art. 4, sec. 867. 1861, ch. 75. 1876, ch. 167. 1880, ch. 94.  
P. L. L., (1888) Art. 4, secs. 801, 804.

To 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 city according to law. It shall create a sinking fund to meet the liabilities thus incurred, and may also levy upon the assessable property of the City of Baltimore, from time to time, such 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 purpose of the same. Whenever the Commissioners of Finance shall be authorized by the city to invest moneys belonging to the sinking fund of said city, in annuities or ground rents, reserved out of the lands leased to the city and payable by the said city, the said Commissioners may purchase such rents or annuities and reversions of such lands; and the conveyances thereof taken may be made to the Mayor and City Council of Baltimore, in trust for the benefit and purpose of the said sinking fund; and in every such case, such conveyances shall not work a merger of the lease or term, but, until otherwise provided by law, the rent shall continue to be payable to the city as if such purchase had not been made, but shall be received and applied by the Commissioners of Finance as the income of other investments of the sinking fund may be applied. Whenever and as often as it may be necessary hereafter to issue certificates of indebtedness or city stock or bonds of the City of Baltimore, either for loans of the said city, already created and authorized by law, but not yet negotiated and issued, or for loans which may be hereafter created and authorized to be issued as aforesaid, provision may be made, in the discretion of the city for the payment of any taxes which the holders of said certificates or bonds may be legally liable; provided, however, that the rate of interest payable on said loan

shall not exceed the rate of five per cent. per annum; and provided, further, that nothing herein contained shall prevent the said city from negotiating said loans, or any part thereof, already authorized by law, but not yet actually issued, or which may be hereafter created and authorized by law, at a lower rate of interest than five per cent. per annum, whenever it may appear to the said city practicable and advisable to do so.

Baltimore v. Gill, 31 Md. 375.

## (26) STREETS, BRIDGES AND HIGHWAYS.

(A) Opening, Extending, Widening, Straightening or closing up Streets.

1817, ch. 148. 1832, ch. 57. 1833, ch. 182. 1838, ch. 226. P. L. L., (1860) Art. 4, sec. 837. 1878, ch. 143. P. L. L., (1888) Art. 4, secs. 806, 806½. 1894, ch. 312.

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 its 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 said owner or possessor ought to be compensated, or ought to pay a compensation, and to provide for assessing or levying, either generally on the whole assessable property of said city, or specially on the property of persons benefited, the whole or any part of the damages and expenses which it shall ascertain will be incurred in locating, opening, extending, widening, straightening or closing up the whole or any part of any street, square, lane or alley in said city. To provide for granting appeals to the Baltimore City Court, from the decisions of the Commissioners for Opening Streets or any Commissioner or Commissioners, or other persons appointed by virtue of any ordinance, to ascertain the damage which will be caused or the benefit which will accrue to the owners or possessors of ground or improvements by locating, opening, extending, widening, straightening or closing up, in whole or in part, any street, square, lane or alley within the said city, 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 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 city, for the use of any such person who, because of 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 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. To acquire the fee simple interest in any land for the purpose of opening, extending, widening or straightening, in whole or in part, any street, square, lane or alley in Baltimore City. To provide by ordinance for the collection of rent or revenue, which may or can be derived or collected from the occupiers, tenants, or by whatever term they may be called, for the use and occupation by them, of all building or buildings, or other property which the city pays for, to the owners thereof, in all cases of street openings, straightenings, closings or widenings, or in any case of condemnation for any purpose whatever, said rent to be paid by said tenants or occupiers of said building or buildings, or other property, to the city authorities, from the date of payment for the same by the city to the owners thereof, or from the date of the tender of such payment, if for any cause said owners refuse or cannot lawfully accept the same, until said building or buildings are removed, and until said property shall be required by the city for its purposes, under the condemnation proceedings.

Alexander v. Mayor, &c., 5 Gill 383. Methodist Prot. Ch. v. Mayor, &c., 6 Gill 391. Richardson v. Mayor, 8 Gill 433. White v. Flannigan, 1 Md. 542. Moale v. Mayor, &c., 5 Md. 321. Steuart v. Mayor, &c., 7 Md. 500. Mayor v. Porter, 18 Md. 284. State v. Graves, 19 Md. 351. Steuart v. State, 20 Md. 97. Douglass v. Boonsboro Turnp. Co., 22 Md. 219. Mayor, &c. v. Bouldin, 23 Md. 328. Mayor, &c. v. Clunet, 23 Md. 449. Hawley v. Mayor, &c., 33 Md. 280. Page v. Mayor, &c., 34 Md. 558. Hazellhurst v. Mayor, 37 Md. 199. Mayor v. Grand Lodge, 44 Md. 436. Norris v. Mayor, &c., 44 Md. 598. McCormick v. Mayor, &c., 45 Md. 527. Dashiell v. Mayor, 45 Md. 616, 625, 626. Northern Central R. R. Co. v. Mayor, &c., 46 Md. 425. Brooks v. Mayor, &c., 48 Md. 265. Mayor, &c. v. St. Agnes Hospital of Balto., 48 Md. 419. Mayor, &c. v. Reitz, 50 Md. 574. Hall v. Mayor, &c., 56 Md. 194. Mayor, &c. v. Black, 56 Md. 333. State *ex rel.* Henderson v. Taylor, 59 Md. 341. Mayor, &c. v. Hook, 62 Md. 371. Central Savings Bank v. Mayor, &c., 71 Md. 515. Zion Church v. Mayor, 71 Md. 521. Friedenwald v. Baltimore, 74 Md. 123. Van Witzon v. Gutman, 79 Md. 412. Balto. v. Ulman, 79 Md. 486. M. & C. C. of Balto. v. Smith, 80 Md. 466. M. & C. C. of Balto. v. Frick, 82 Md. 86. Baltimore v. Coates, 85 Md. 531. Balto. City v. Broumel, 86 Md. 159. Baltimore City v. Cowen, 88 Md. 450. Pembe v. Anne Arundel Co., 94 Md. 226. Riggs v. Winterode, 100 Md. 447.

The city is not compelled to accept any dedicated street. Until accepted such streets remain private property.

Brady v. Balto. Belt R. R., Daily Record, November 26, 1894.

The doctrine of adverse possession applies to the case of property dedicated to public use for a highway within the territorial limits of a municipal corporation. A municipal corporation may be held to be estopped from setting up a claim to a public highway.

Bing v. Mayor & C. C. of Baltimore, Daily Record, April 3, 1889.

In relation to opening, widening, straightening, etc., streets, *see*,

Binney's Case, 2 Bland, 129. Graff v. Mayor & C. C. of Baltimore, 10 Md. 544. Merrick v. Mayor, 43 Md. 219. Black v. Mayor, &c., 50 Md. 235. Tinges v. Mayor, &c., 51 Md. 600. Hiss v. Balto. & Hampden Pass. Railway Co., 52 Md. 242. McMurray v. Mayor, &c., 54 Md. 103. Hodges v. Balto. Union Pass. Railway Co., 58 Md. 603. Co. Commrs. of Balto Co. v. Md. Hospital, 62 Md. 127. Mayor, &c., v. White, 62 Md. 362. Glenn v. Mayor, 67 Md. 390. Hitchins v. Frostburg, 68 Md. 100. P., W. & B. R. R. v. Shipley, 72 Md. 93. Pitts v. Baltimore, 73 Md. 326. Friedenwald v. Shipley, 74 Md. 220. Heaver v. Lanahan, 74 Md. 498. Burk v. Mayor & C. C. of Balto., 77 Md. 471. Gluck v. Baltimore, 81 Md. 315. Baltimore City v. Fear, 82 Md. 246. Baldwin v. Trimble, 85 Md. 397. Flersheim v. Mayor, 85 Md. 493. Valentine v. Hagerstown, 86 Md. 488. Clendenin v. Md. Construction Co., 86 Md. 80. Baltimore City v. N. C. Ry. Co., 88 Md. 427. Ogle v. Cumberland, 90 Md. 62. Gardiner v. Baltimore City, 96 Md. 361. Jenkins v. Riggs, 100 Md. 438.

Widening of Light Street.—Rights to build out in the Harbor.

Baltimore City v. Steamboat Company, 104 Md. 485.

Chester Street dedicated.

Canton Company v. City, 104 Md. 582.

Private alleys not exempt from taxation.

Hill v. Williams, 104 Md. 595.

Bridges over Falls and Railroads are parts of streets.

Northern Central Railway v. United Railways and Electric Company, 105 Md. 346.

Dedication may be nullified by non-user by public coupled with adverse occupation.

Canton Co. v. City, 106 Md. 69.

As to evidence of dedication.

Baltimore v. Yost, 121 Md. 366.

Reference in deed held for purpose of location, and not dedication, under facts of case.

Bloede v. Baltimore, 115 Md. 594.

Improvements of the highways within Baltimore City by the State Roads Commission and the right to compel railway company to remove its tracks at its own cost.

United Railways Company v. State Roads Commission, 123 Md. 561.

A dedication of a street to become irrevocable must be accepted.

Baltimore v. Canton Co., 124 Md. 620.

## (B) GRADE LINES OF STREETS.

1874, ch. 218. P. L. L., (1888) Art. 4, sec. 809. 1888, ch. 285.

To provide by general or special ordinance for the establishment, and change from time to time, of the grade lines of any street, lane or alley, or part thereof, located or laid out upon the plan of said city.

Dashiell v. Mayor, &c., 45 Md. 616. Cumberland v. Willson, 50 Md. 147. 148. Kelley v. Mayor, &c., 65 Md. 175. O'Brien v. Balto. Belt R. R., 74 Md. 373. Baltimore City v. Cowen, 88 Md. 447, 458. Guest v. Church Hill, 90 Md. 693.

(C) GRADING, PAVING, CURBING, ETC., STREETS.

(Special Ordinance.)

1874, ch. 218. P. L. L., (1888) Art. 4, sec. 810. 1892, ch. 219.

To provide by ordinance for grading, shelling, graveling, paving and curbing, or for the regrading, reshelling, regraveling, repaving and recurbing of any street, lane or alley in said city, or part thereof, now condemned, ceded, opened as a public highway, or which may hereafter be condemned, ceded, opened, widened, straightened or altered according to the laws and ordinances regulating the same, and also for assessing the cost of any such work, in whole or in part, upon the property binding upon such street, lane or alley, or part thereof, according to such rule or basis as it may determine, and for collecting said assessments as other city taxes are collected or in such manner as it may prescribe, either before or after the work shall have been done, provided that before the passage by either Branch of the City Council of any ordinance requiring the whole or any portion of the costs to be assessed upon the property ten days' notice shall be given in at least two of the daily newspapers in said city, and an opportunity shall be afforded to all persons interested therein to appear and be heard before some appropriate committee of the Council, and it may also provide for appeals to the Baltimore City Court from the decisions of the Commissioners for Opening Streets or any Commissioner or Commissioners, or other person or persons appointed to determine the amount of assessment to be made upon any property under any such ordinance; and in the trial of such appeal the practice shall conform as near as may be to the practice in the trials of street appeals, including the right of appeal to the Court of Appeals.

Mayor, &c., v. Moore, 6 H. & J. 375. Mayor, &c. v. Hughes, 1 G. & J. 480. Esehbach v. Pitts, 6 Md. 71. Mayor, &c. v. Greenmount Cemetery, 7 Md. 517. Henderson v. Mayor, 8 Md. 352. Mayor, &c. v. Porter, 18 Md. 284. N. C. Ry. Co. v. Baltimore, 21 Md. 105. Mayor, &c. v. Horn, 26 Md. 194. Balto. & Pot. R. R. Co. v. Reany, 42 Md. 118. Dashiell v. Mayor, 45 Md. 616. Burns v. Mayor, 48 Md. 198. Mayor, &c. v. Scharf, 54 Md. 499. Mayor, &c. v. Johns Hopkins, 56 Md. 1. Gould v. Mayor, 58 Md. 46. Gould v. M. & C. C. of Baltimore, 59 Md. 378. Moale v. Mayor, &c., 61 Md. 224. Mayor, &c. v. Hanson, 61 Md. 462. Mayor, &c. v. Johnson, 62 Md. 225. Mayor, &c. v. Hook, 62 Md. 371. Alberger v. Mayor, 64 Md. 1. Kelley v. Mayor, 65 Md. 171. Baltimore v. Raymo, 68 Md.

569. *Ulman v. Mayor*, 72 Md. 591, 609. *Baltimore v. Ulman*, 165 U. S. 719. *O'Brien v. Balto. Belt R. R.*, 74 Md. 273. *Baltimore v. Ulman*, 79 Md. 469. *Balto. v. Cowen*, 88 Md. 457. *Guest v. Church Hill*, 90 Md. 693. *Balto. City v. Stewart*, 92 Md. 535, 551. *Cabill v. Baltimore City*, 93 Md. 233. *Kent County v. Godwin*, 98 Md. 84. *Frostburg v. Wineland*, 98 Md. 243.

For further decisions relating to grading, paving and curbing, see,—

*Clements v. Mayor, &c. of Baltimore*, 16 Md. 208. *Mayor, &c. v. Harwood*, 32 Md. 471. *Peddicord v. Balto., Catonsville, &c., Co.*, 34 Md. 463. *Cumberland v. Willson*, 50 Md. 138. *Hitchins v. Frostburg*, 68 Md. 100. *C. & P. Tel. Co. v. McKenzie*, 74 Md. 48. *M. & C. C. of Balto. v. Turnpike Co.*, 80 Md. 536. *Smyrk v. Sharp*, 82 Md. 97. *Hagerstown v. Startzman*, 93 Md. 609. *DeLawder v. Balto. County*, 94 Md. 1. *Offutt v. Montgomery Co.*, 94 Md. 115.

The ten days' notice of the passage of an ordinance authorizing paving prescribed by Act of 1892, ch. 219 (now sec. 6 of Charter) must be given or a Court of Equity will intervene.

*Bond v. Malster*, Daily Record, July 6, 1899.

As to degree of care city must exercise in keeping the streets in repair, see,

*Baltimore City v. Lobe*, 90 Md. 314.

Liability of municipal corporations for defects in streets—Negligence—Notice—Defects not apparent on surface.

*Sweeten v. Baltimore*, 123 Md. 88.

A plaintiff cannot recover otherwise than according to the allegations of his Declaration, and a prayer based on other facts is improper—Negligence—Recovery cannot be had upon testimony as to conditions appearing sixteen months later, in the absence of all testimony as to how the work had been done.

*Baltimore v. Stalfort*, 123 Md. 269.

## (D) GRADING, PAVING, CURBING, ETC., STREETS.

(General Ordinance, Application of Owners.)

1874, ch. 218. P. L. L., (1888) Art. 4, sec. 811.

To provide by general ordinance, subject to provisions and requirements of section 85 of this Article, for the grading, gravelling, shelling, paving or curbing, or for the regrading, regraveling, reshelling, repaving or recurbing of any street, lane or alley, or part thereof, in said city, without the passage of a special ordinance in the particular case, whenever the owners of a majority of the front feet of property binding on such street, lane or alley, or part thereof, shall apply for the same, upon terms and under conditions to be prescribed in the same general ordinance, and for the assessment in any such case of the cost of such work, in whole or in part, *pro rata*, upon all the property binding upon such street, lane or alley, or part thereof, and for the collection of such assessment as other city taxes are collected.



Henderson v. Mayor, 8 Md. 352. Holland v. Mayor, 11 Md. 186. Bouldin v. Mayor, 15 Md. 18. Mayor, &c. v. Eschbach, 18 Md. 276. Mayor v. Porter, 18 Md. 284. Howard v. First Ind. Church, 18 Md. 451. Mayor, &c. v. Bouldin, 23 Md. 328. Mayor, &c. v. Horn, 26 Md. 195. Lester v. Mayor, 29 Md. 419. Dashiell v. Mayor, 45 Md. 624. Burns v. Mayor, 48 Md. 200. Wolff v. M. & C. C. of Baltimore, 49 Md. 446. Mayor, &c. v. Johns Hopkins Hospital, 56 Md. 1. Moale v. Baltimore, 61 Md. 237. Mayor, &c. v. Boyd, 64 Md. 10.

(E) LEVY OF TAX TO PAY UNPAID ASSESSMENTS FOR  
GRADING, PAVING, ETC.

1892, ch. 284. P. L. L., (1888) Art. 4, sec. 811A.

In any and all cases where any street, lane or alley, or any part thereof, in the city, has been graded, paved or curbed, or regraded, repaved or recurbed, under any ordinance which provided for assessing the whole or any portion of the cost of such improvement upon the property binding upon such street, lane or alley, or part thereof, and such assessments, or any part thereof, remain unpaid, it shall be lawful for the city to provide by ordinance for the levy and collection in such manner as it may deem proper, of a tax upon all the property binding on any street, lane or alley, or part thereof, which may have been so improved, to the extent that such property shall have been specially benefited by such improvement, provided, that no property upon which the assessment originally made for its share of the cost of such improvement shall have been paid, shall be again assessed, and that reasonable notice and an opportunity to be heard shall be given to all persons interested before the final ascertainment of the amount of tax to be paid by any such property, and the said city shall provide for appeals to the Baltimore City Court by any person or persons interested, including the city itself from the decision of the Commissioners for Opening Streets, or any Commissioner or Commissioners or other persons appointed to determine the amount or amounts of such special taxes or assessments; and in the trial of such appeals the practice shall conform as near as may be to the practice in the trial of street appeals, including the right of appeal to the Court of Appeals.

Baltimore v. Ulman, 79 Md. 480. Ulman v. Baltimore, 165 U. S. 719. Balto. v. Stewart, 92 Md. 535. Leser v. Wagner, 119 Md. 671.

(F) FOOTWAYS.

P. L. L., (1860) Art. 4, sec. 852. P. L. L., (1888) Art. 4, sec. 816.

To 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 fronting on any paved street, lane or alley, for the purpose of grading, regulating, paving or repairing footways in front thereof, or compel by fine or otherwise the owner or proprietor of any lot to pave or repair the footways in front thereof, agreeable to the ordinances to be passed by it.

*Bassett v. Ocean City*, 118 Md. 114. *State v. Kent County*, 83 Md. 379.

### (G) REGULATING USE OF STREET.

#### OBSTRUCTIONS AND ENCROACHMENTS.

To regulate the use of streets, highways, roads, public places and sidewalks by foot passengers, animals, vehicles, cars, motors and locomotives, and prevent encroachment thereon and obstruction of the same.

*C. & P. Tel. Co. v. Baltimore City*, 89 Md. 705. *Hagerstown v. Klotz*, 93 Md. 440. *Townsend, Grace & Co. v. Epstein*, 93 Md. 537. *Baltimore City v. Beck*, 96 Md. 190. *B. & O. R. R. Co. v. Balto. City*, 98 Md. 536. *Knight v. Balto. City*, 97 Md. 649. *Balto. City v. Walker*, 98 Md. 640. *Brauer v. Refrigerator Co.*, 99 Md. 376.

As to widening of sidewalks by city, *see*, *Klein v. U. Rys. & Elec. Co.*, *Daily Record*, January 4, 1906.

For decisions arising out of the exercise and construction of powers under paragraph (G), *see*,

*Mayor & C. C. of Balto. v. Marriott*, 9 Md. 160. *Roman v. Strauss*, 10 Md. 89. *Mayor, &c., Balto. v. Pennington*, 15 Md. 12. *Altwater v. Mayor*, 31 Md. 462. *Houck v. Wachter*, 34 Md. 265. *Peddicord's Case*, 34 Md. 463. *Mayor, &c. v. Holmes*, 39 Md. 243. *Flynn v. Canton Co.*, 40 Md. 312. *Mayor, &c., Balto. v. O'Donnell*, 53 Md. 110. *Turner v. Holman*, 54 Md. 148. *Gore v. Brubaker*, 55 Md. 87. *Canal Co. v. County Commrs.*, 57 Md. 201. *Textor v. B. & O. R. R. Co.*, 59 Md. 63. *Sinclair v. Baltimore*, 59 Md. 598. *Crook v. Pitcher*, 61 Md. 510.

*Thomas v. Ford*, 63 Md. 346. *Taylor v. Cumberland*, 64 Md. 68. *Garrett v. Janes*, 65 Md. 260. *Kennedy v. Cumberland*, 65 Md. 514. *C. & P. Tel. Co. v. McKenzie*, 74 Md. 49, 50. *Koch v. N. Ave. Ry. Co.*, 75 Md. 229. *N. Balto. R. R. Co. v. N. Ave. R. R. Co.*, 75 Md. 233. *N. Balto. R. R. Co. v. Baltimore*, 75 Md. 247. *Twilley v. Perkins*, 77 Md. 262. *Lake Rol. El. R. R. Co. v. Balto.*, 77 Md. 372-381. *Green v. City & Sub. Ry. Co.*, 78 Md. 307. *Condon v. Sprigg*, 78 Md. 337. *Garrett v. Lake Rol. Elv. R. R. Co.*, 79 Md. 277. *Postal Telg. Cable Co. v. Baltimore*, 79 Md. 512. *Cochrane v. Frostburg*, 81 Md. 54. *Ulman v. Charles St. Ave. Co.*, 83 Md. 145. *Baldwin v. Trimble*, 85 Md. 396. *Gunther v. Dranbauer*, 86 Md. 1. *Reidel v. P., W. & B. R. R. Co.*, 87 Md. 158. *Worcester Co. v. Ryckman*, 91 Md. 37. *Mason v. Cumberland*, 92 Md. 462. *Keen v. Havre de Grace*, 93 Md. 34. *Magaha v. Hagerstown*, 95 Md. 69. *New Windsor v. Stocksdale*, 95 Md. 215.

Turnpike road partly in Baltimore City owned by private corporation and streets owned by individuals but used by the public as highways are streets and highways of Baltimore City within the meaning of this Section.

*The Patapsco Electric Co. v. M. & C. C.*, 110 Md. 310.

City liable for negligence of its contractor digging sewer under its supervision, evidence showing negligence—pleading.

*Hanrahan v. City*, 114 Md. 517.

Regulating use of streets—liability—obstruction—defect, street—city liable—obstruction on sidewalk left by its contractor over whom it retains supervision—contributory negligence, plaintiff—not guilty—lights.

*McCarthy v. Clark*, 115 Md. 454.

Obstruction—railroad track—public street—cutting off access—abutting owner—proof extent of injury; diminution in market value.

*Webb v. B. & O. R. R. Co.*, 114 Md. 216.

## (H) OPENING OF STREET SURFACE.

To regulate the opening of street surface, for the purposes authorized by law or ordinance.

In relation to opening street surface, *see*, *State v. Latrobe*, 81 Md. 233. *Edison Co. v. Hooper*, 85 Md. 111. *C. & P. Telephone Co. v. Balto. City*, 89 Md. 689. *Balto. City v. Balto. Co. W. & E. Co.*, 95 Md. 239.

## (I) NUMBERING HOUSES.

To regulate the numbering of houses, lots, streets and avenues, and the naming of streets, avenues and public places.

## (J) REGULATING USE OF SIDEWALKS AND STREETS BY SIGNS, POLES, WIRES, TREES, ETC.

1912, ch. 32.

To regulate the use of streets and sidewalks for use of telegraph posts, trolley poles, electric light poles, telegraph wires, electric light wires and for any and all other purposes, and to prohibit the erection of any posts, poles or wires and to compel the removal of any posts, poles or wires in, over or above any street, sidewalk or highway; and to regulate the planting, trimming or destroying of trees in or upon any street, sidewalk or public highway.

*Ches. & Pot. Tel Co. v. McKenzie*, 74 Md. 47. *Postal Telg. Cable Co. v. Baltimore*, 79 Md. 512. *Balto. City v. Walker*, 98 Md. 637. *Braner v. Refrigerating Co.*, 99 Md. 512.

The Act 1906, chapter 152 and the Act 1904, chapter 616, re-enacting section 8 of the Charter, by their terms necessarily modify the general power of the Mayor and City Council of Baltimore in relation to signs, sign posts, awnings, awning posts and horse troughs where construction or erection of same obstructs sidewalk. Sub-division "J" of section 6, *supra*, has been modified accordingly.

City may not arbitrarily or unreasonably destroy shade trees, but where their destruction is necessary to a street improvement, no liability.

*Easton v. Turner*, 117 Md. 111.

A provision similar to above held to be a reasonable grant of power. A prohibition of awning poles, obstructions, &c., on certain streets or in a certain district, although permitted in other sections of the city, is not invalid on the ground that it discriminates or is arbitrary.

*Echison v. Frederick City*, 123 Md. 283.

#### (K) CLEANING AND LIGHTING STREETS.

P. L. L., (1860) Art. 4, sec. 862. P. L. L., (1888) Art. 4, sec. 819.

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 to protect any pavement by prohibiting the travel thereon. To 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.

*Baltimore City v. Beck*, 96 Md. 183. *See, also*, *Am. Lighting Co. v. McCuen*, 92 Md. 705.

#### (L) USE OF STREETS BY TRACKS, POLES AND WIRES.

P. L. L., (1888) Art. 4, sec. 819a. 1890, ch. 370. 1914, ch. 859.

To regulate the use of streets, lanes or alleys in said city, by railway or other tracks, gas or other pipes, telegraph, telephone, electric light or other wires and poles, in, under, over or upon the same, and to require all such wires to be placed under ground after such reasonable notice as it may prescribe. To determine the character of the foundation to be used under and around the railway ties, and, in any case where a street is being paved by the Paving Commission or other public agency and the character of the foundation is not determined by ordinance, the same shall be determined by the Paving Commission or other public agency doing such paving, and full power to do so is hereby given. It shall be the duty of every railroad or street railway corporation occupying with its tracks any portion of the public highways of Baltimore City to put in the character of foundation determined upon in pursuance of this provision.

*Ches. & Pot. Tel. Co. v. McKenzie*, 74 Md. 47-48. *Koch v. North Ave. Ry. Co.*, 75 Md. 222-229. *N. Balto. Pass. Ry. Co. v. N. Ave. Ry. Co.*, 75 Md. 233. *N. Balto. Pass. Ry. Co. v. Mayor, &c. Balto.*, 75 Md. 247. *Lake Rol. R. R. Co. v. Baltimore*, 77 Md. 380-381. *Garrett v. Lake Rol. El. R. R. Co.*, 79 Md 286. *Postal Tel. Cable Co. v. Balto.*, 79 Md. 511. *Edison Co. v. Hooper*, 85 Md. 111. *Hooper v. Balto. City Pass. Ry. Co.*, 85 Md. 509. *Poole v. Falls Rd. Ry. Co.*, 88 Md. 533. *C. & P. Tel. Co. v. Balto. City*, 89 Md. 705. *C. & P. Tel. Co. v. Balto. City*, 90 Md. 638. *Baltimore v. C. & P. Tel. Co.*, 92 Md. 692. *Balto. v. Balto. Co. W. & Elec. Co.*, 95 Md. 239. *Purnell v. McLane*, 98 Md. 594. *Simon's Sons v. Md. Tel. & Telg. Co.*, 99 Md. 173.

Rule laid down as to extent of city's right to regulate erection of poles in the streets. *City & Suburban Railway Company v. Brush Electric Co.*, *Daily Record*, December 20, 1895.

When action at law is only remedy for injuries to abutting property by the erection of a pole. *Polenk v. Md. Telephone Company*, Daily Record, June 13, 1901.

For further decisions relating to use of streets by tracks, poles and wires, *see*,

*N. C. Ry. Co. v. M. & C. C. of Balto.*, 46 Md. 423. *Kirby v. Citizens Ry. Co.*, 48 Md. 168. *Hiss v. Balto. & Il. Ry. Co.*, 52 Md. 242. *Hodges v. B. C. P. Ry. Co.*, 58 Md. 603. *Canton Co. v. B. & O. R. R. Co.*, 79 Md. 432. *State ex rel v. Latrobe*, 81 Md. 222. *Birch v. Lake Rol. El. R. R. Co.*, 83 Md. 369. *United Rys. Co. v. Hayes*, 92 Md. 490. *Lonaconing v. Consol. Coal Co.*, 95 Md. 635. *B. & O. R. R. Co. v. Baltimore*, 98 Md. 536. *Consol. Gas Co. v. Balto. Co.*, 98 Md. 696.

## (M) CONDUITS, ELECTRICAL COMMISSION AND RENTALS OF CONDUITS.

1892, ch. 200. P. L. L., (1888) Art. 4, sec. S19B.

To provide a series of conduits under the streets, lanes and alleys of said city, or any part or parts thereof, for the use of telephone, telegraph, electric light and other wires, either by constructing said conduits itself or authorizing their construction by such person or corporation, upon such terms as may be agreed upon. To appoint an Electrical Commission, with such powers and duties as it may deem proper or appropriate for carrying out the aforesaid provisions of this section relating to conduits. To require all such wires, or any part or parts thereof, and the poles carrying the same, to be removed from the surface of the streets, lanes or alleys of said city, or any part or parts thereof, and to require such wires to be placed in such conduits, all under such penalty as it may prescribe. To prescribe and establish reasonable rentals to be paid by any company or person using any of said conduits, by whomsoever the same may be constructed, for the use thereof, and to provide for the collection of such rentals, in addition to the ordinary processes by such summary methods as it may deem appropriate; provided, however, that nothing contained in this Article shall be deemed or taken to modify or change, in any manner, the provisions of Ordinance Number Forty-one, of the Mayor and City Council of Baltimore, approved May 9, 1889, or the rights and privileges granted thereby to the companies therein named or either of them.

*Hooper v. City Pass. Ry. Co.*, 85 Md. 110. *C. & P. Tel. Co. v. Baltimore*, 89 Md. 689. *C. & P. Tel. Co. v. Baltimore*, 90 Md. 638. *C. & P. Tel. Co. v. Baltimore*, 92 Md. 692. *Purnell v. McLane*, 98 Md. 590. *Cf.*, *Edison Co. v. Hooper*, 85 Md. 110. *Simon's Sons v. Md. Tel. Co.*, 99 Md. 173.

## (N) BRIDGES AND TURNPIKE ROADS.

1824, ch. 105. P. L. L., (1860) Art. 4, sec. 857. P. L. L., (1888) Art. 4, sec. 818.

To purchase, with the County Commissioners of any adjoining or neighboring counties of said city, all bridges and turnpikes roads, or any portions thereof, leading toward said city, at such times and upon such terms as it and said County Commissioners on the one part, and the owner of such bridges and highways on the other, may mutually agree, and when so purchased all or any of them shall thereafter be free public highways, and as such under the care and management of said city and said County Commissioners, as they may respectively provide and stipulate as between them.

Hooper v. President, B. & Y. Turnpike Road, 34 Md. 521. Balto. & Havre de Grace Turnpike Co. v. Union Ry. Co., 35 Md. 224. Peddycord v. B. C. & E. M. R. R. Co., 34 Md. 463. M. & C. C. of Baltimore v. Turnpike Co., 80 Md. 541. See Frush v. Mayor, City Court, Oct. 15, 1874, decision of Brown, C. J.

## (O) CATHEDRAL CEMETERY.

Repealed by Act of 1912, chapter 429.

## (P) LIGHT STREET BRIDGE.

1886, ch. 24. P. L. L., (1888) Art. 4, sec. 823.

With the County Commissioners of Anne Arundel County, to cause to be erected and maintained at their joint expense lamps along and on Light Street Bridge, not more than seventy-five yards apart; provided, that there shall be at least one lamp at each end of the draw of said bridge, and the said lamps shall be attended to, cleaned, lighted at night and extinguished in the morning by the keeper of said bridge.

Pumphrey v. Mayor, 47 Md. 145. Mayor, &c. v. Stoll, 52 Md. 435.  
See note pages 364-365 City Code (1879).  
See Act 1914, ch. 267.

## (Q) DISTRIBUTING POLES AND OTHER SIMILAR STRUCTURES.

1908, ch. 168.

To erect and construct through the Electrical Commission, in connection with the underground conduits now in course of construction by said Commission, distributing poles or other similar structures; and to compel and regulate the use of said poles or other similar structures by individuals and corporations to the same extent as the Mayor and City Council of Baltimore

can now compel and regulate the use of underground conduits by individuals or corporations.

(27) SURVEYOR.

P. L. L., (1860) Art. 4, sec. 865. P. L. L., (1888) Art. 4, sec. 825.

To prescribe by ordinance the duties and compensation of the City Surveyor.

(28) TAXES.

(A) ANNUAL LEVY.

1874 ch. 180. P. L. L., (1888) Art. 4, sec. 827.

To levy annually upon the assessable property of the city, by direct tax, with full power to provide by ordinance for collection of the same, such sum of money as may be necessary, in its judgment, for the purpose of defraying the expenses of said city over and exclusive of all expenses, charges and sums of money which it is, or shall be required by law to collect for other purposes subject to the provisions and limitations herein contained.

St. Mary's Industrial School v. Brown, 45 Md. 329-333. Hopkins v. Van Wyck, 80 Md. 17. Casualty Ins. Co.'s Case, 82 Md. 561-564. *Cf.*, Insurance Co. v. Mayor, &c., 23 Md. 296. Watts v. Port Deposit, 46 Md. 500-505. Mayor, &c. v. Johnson, 62 Md. 225. Hebb v. Moore, 66 Md. 167. B. C. & A. R. R. Co. v. Wicomico Co., 93 Md. 124. Water Co. v. Westminster, 98 Md. 551.

(B) PROPERTY TAXABLE.

1865, ch. 119. P. L. L., (1888) Art. 4, sec. 828.

To levy and collect taxes upon every description of property found within the corporate limits of said city, which it is now authorized by law to levy taxes upon, for the purpose of defraying the expenses of the municipal government, whether the owners thereof reside within or without the limits of said corporation; provided that no stocks, bonds, mortgages, certificates or other evidences of indebtedness of any bank or other corporation situate within the limits of said city, which are owned or held by persons residing without said limits, shall be subject to taxation for the purpose above set forth; and provided further than no authority is given by this section to impose taxes on any property which is now or may hereafter be exempted from taxation by any general or special Act of the General Assembly of Maryland, nor upon any property which may be stored or deposited in the City of Baltimore for temporary purposes.

M. & C. C. of Balto. v. B. & O. R. R. Co., 6 Gill 294. Latrobe v. Mayor, 19 Md. 13. Mayor v. Sterling, 29 Md. 48. The Appeal Tax Court Cases in 50 Md. Gunther v. Baltimore, 45 Md. 457. Union, &c., Co. v. Mayor, 71 Md. 405. Hopkins v. Baker, 78 Md. 363. Postal Tel. Cable Co. v. Balto., 79 Md. 502. Park Tax Case, 84 Md. 1. Textor v. Shipley, 86 Md. 442. Corry v. Baltimore, 96 Md. 322. Balto. City v. Johnson, 96 Md. 738. Dry Dock Co. v. Baltimore, 97 Md. 103. Consolidated Gas Co. v. Baltimore, 101 Md. 541.

For additional decisions bearing upon the construction of this section, *see*,

Mayor, &c. v. Chase, 2 G. & J. 376. Dallam et al. v. Oliver's Exrs., 3 Gill 445. Mayor v. State, 15 Md. 376. Mayor, &c. v. Grand Lodge, 60 Md. 280. Mayor, &c. v. Canton Co., 63 Md. 218. Bonaparte v. State, 63 Md. 446. Mayor, &c., Balto. v. Hussey, 67 Md. 112. Degner v. Mayor, &c., 74 Md. 144. Wells v. Hyattsville, 77 Md. 133. County Commr's v. Winand, 77 Md. 522. U. S. Elec. Light Co. v. State, 79 Md. 63. Simpson v. Hopkins, 82 Md. 478. Myers v. Baltimore County, 83 Md. 386. Fredk. County v. Fredk. City, 88 Md. 658. Salisbury v. Jackson, 89 Md. 521. Kinehart v. Howard, 90 Md. 1. Monticello v. Baltimore City, 90 Md. 426. Balto. City v. Safe Deposit & Trust Co., 97 Md. 659. Balto City v. Allegheny Co., 99 Md. 1. Cambridge v. Water Co., 99 Md. 501.

For other cases relating to taxes and taxation, *see* under sections 4, 36, 40, 42 to 58 inclusive, 145 to 171 inclusive, and 843 of the Charter.

*Taxation of Easements by Appeal Tax Court:* In Article 81, sections 2, 4, 138 and 141, the Legislature did not intend that such an easement as the Baltimore and Fredericktown Turnpike Company possesses in its road-bed in Baltimore City should be assessable by the Appeal Tax Court.

Balto. & Fredk. Turnpike Co. v. Mayor & C. C. of Baltimore, Daily Record, May 7, 1903.

Arbitrary exemption from taxation void.

Baltimore v. Star Church, 106 Md. 281.

Foreign corporation doing business in State not exempt.

Hannis Dis. Co. v. Balto., 114 Md. 678.

City can increase assessment on land decreed to be sold in Equity. M. & C. C. v. John S. Gittings, Trustee, 113 Md. 120.

Notice addressed to plaintiff personally, and not as Trustee, is sufficient to inform him of the increase proposed to be made in the assessment and his remedy is by appeal to City Court and not to apply to a Court of Equity.

M. & C. C. v. Gittings, 113 Md. 120.

### (C) ABATEMENTS TO ENCOURAGE MANUFACTURES.

1880, ch. 187. P. L. L., (1888) Art. 4, sec. 829. 1912, ch. 32.

To provide by general ordinance, whenever it shall seem expedient for the encouragement of the growth and development of manufactures and manufacturing industry in the said city, for the abatement of any or all taxes levied by authority of the said Mayor and City Council of Baltimore, or by ordinance thereof, for any of the corporate uses thereof, upon any or



all personal property of every description owned by any individual, firm or corporation in said city, and property subject to valuation and taxation therein, including mechanical tools or implements, whether worked by hand or steam or other motive power, machinery, manufacturing apparatus or engines, raw materials on hand, stock in trade, bills receivable, and business credits of every kind, which said personal property shall be actually employed or used in the business of manufacturing in said city; provided that such abatement shall be extended to all persons, firms and corporations engaged in the branches of manufacturing industry proposed to be benefited by any ordinance passed under the provisions of this paragraph of this section. Any taxes so abated shall be deducted from the taxes payable upon the capital stock, taxable in said city, of manufacturing corporations, incorporated under the laws of the State of Maryland and located in said city; but nothing herein contained shall affect in any way the taxes that are now or may hereafter be payable by law to the State of Maryland or any of the counties or municipalities of the State on the capital stock of manufacturing corporations, incorporated under the laws of this State and located in Baltimore City. It shall be the duty of the Appeal Tax Court to make such abatement of taxes, levied as aforesaid, as may be authorized and directed by ordinance, as aforesaid; provided that application for such abatement as aforesaid shall be made by the party applying for the same before the annual revision and correction of the tax lists for the year in which said applicant desires such abatement, but it shall not be necessary for the applicant to renew his application from year to year. Said application shall be verified to the satisfaction of said court by the oath of the party applying for the same or other satisfactory evidence. Said court shall further keep a record of all abatements made by it as aforesaid and report in writing the aggregate amount thereof to the Mayor and City Council of Baltimore on or before the fifteenth day of October in each year.

Consol. Gas Co. v. Mayor & C. C. of Balto., 62 Md. 588. *Cf.* Wells v. Hyattsville, 77 Md. 125. Electric Light Co. v. Frederick City, 84 Md. 599.

(D) COLLECTION OF TAXES.

1840, ch. 63. 1874, ch. 39. P. L. L., (1860) Art. 4, sec. 873. P. L. L., (1888) Art. 4, secs. 830, 831.

To extend the limits of direct taxation within the said city, from time to time, as it shall deem expedient. To 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.

Mayor, &c. v. Howard, 6 H. & J. 383. Dugan v. Mayor, 1 G. & J. 499. Mayor, &c. v. Chase, 2 G. & J. 376. Dallam et al. v. Oliver's Exrs., 3 Gill 445. Eschbach v. Pitts, 6 Md. 71. Latrobe v. Mayor, 19 Md. 13. Appeal Tax Court v. W. M. R. R. Co., 50 Md. 274. Appeal Tax Court v. Patterson, 50 Md. 354. Baltimore v. Hussey, 67 Md. 112. Union, &c., Co. v. Mayor, 71 Md. 238. Degner v. Mayor, 74 Md. 144. Parlett v. Dugan, 85 Md. 407. Textor v. Shipley, 86 Md. 442.

In relation to collection of taxes generally, *see*.

Tuck v. Calvert, 33 Md. 209. Dashiell v. Mayor, 45 Md. 615. Wheeler v. Addison, 54 Md. 41. County Commissioners v. Union Mining Co., 61 Md. 545. Hebb v. Moore, 66 Md. 167. Condon v. Maynard, 71 Md. 601. Faust v. Building Ass'n., 84 Md. 186. Fowble v. Kemp, 92 Md. 628.

## (29) THEATRICAL AND OTHER PUBLIC AMUSEMENTS.

P. L. L., (1860) Art. 4, sec. 906. P. L. L., (1888) Art. 4, sec. 665.

To provide for licensing, regulating and restraining theatrical or other public amusements within the City of Baltimore.

## (30) WATER.

### (A) ACQUISITION OF LAND AND WATERCOURSES.

1853, ch. 376. P. L. L., (1860) Art. 4, sec. 928. P. L. L., (1888) Art. 4, sec. 915.

To establish, operate, maintain and control a system of water supply for Baltimore City, and to pass all ordinances necessary in the premises. From time to time to contract for, purchase, lease, and hold, in fee simple, or for a term of years, any land, real estate, spring, brook, water, watercourse, and also the right to use and occupy, forever or for a term of years, any land, real estate, spring, brook, water or watercourse which it may conceive expedient and necessary for the purpose of conveying water into the said city for the use of the said city and for the health and convenience of the inhabitants thereof, and also the right to enter and pass through, from time to time, as occasion may require, and to use and occupy the said lands, through which it may deem necessary to convey the said water; and it is 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.

Mayor, &c. v. Appold, 42 Md. 442. Mayor, &c. v. Warren Mfg. Co., 59 Md. 96. Baltimore City v. Merryman, 86 Md. 591. *Cf.*, Baltimore

v. Ritchie, 51 Md. 232. Consolidated Gas Co. v. Balto. County, 98 Md. 695. Callaway v. Baltimore City, 99 Md. 316.

Where a municipality furnished water gratuitously to be used in extinguishing fires it acts in a governmental capacity and is not liable for negligence in connection with its water works.

Wallace v. Baltimore City, 123 Md. 638.

See Act of 1908, ch. 214, quoted in secs. S26z, to S26pp., both inclusive.

Condemnation Proceedings to Acquire Land, etc., for Water Supply.—Measure of Damages and how to be Estimated.

Brack v. Baltimore, 125 Md. —.

### (B) SALE OF WATER.

1882, ch. 225. P. L. L., (1888) Art. 4, sec. 916.

To contract with individuals, firms or corporations for the use of the water of said city, on such terms and for such time as it may deem proper and expedient.

Baltimore City v. Day, 89 Md. 555.

### (C) ACQUISITION OF PROPERTY AND MATERIALS BY AGREEMENT.

P. L. L., (1860) Art. 4, sec. 929. P. L. L., (1888) Art. 4, sec. 917.

The Mayor and City Council of Baltimore, or any agent authorized by it, may agree with the owner of any land, real estate, spring, brook, water or watercourse, as aforesaid, earth, timber, stone or other materials which it may conceive expedient or necessary to purchase and hold, for the purpose of introducing water into the City of Baltimore.

Baltimore City v. Day, 89 Md. 551.

### (D) OR, MAY ACQUIRE SAME BY CONDEMNATION PROCEEDINGS.

1853, ch. 376. P. L. L., (1860) Art. 4, sec. 930. P. L. L., (1888) Art. 4, sec. 918.

If they cannot agree, or if there be any incapacity or disability to contract with the owner of such land or real estate, spring, brook, water or watercourse as aforesaid, earth, timber, stone, or other materials, or with the owner of such lands through which the said city 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 should be absent, out of the State, or unknown, it shall be lawful, on application of the city, for any Justice of the Peace of the county in which said 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 persons

interested, as aforesaid, in the said real estate, or other property, to meet on the premises which are 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 city 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 some one or more of the newspapers of the county in which said property may be located, if any newspapers be published in such county.

Graff v. Mayor, 10 Md. 544. Kane v. Mayor, 15 Md. 240. Taylor v. Mayor, 45 Md. 576. Mayor, &c. v. Warren Mfg. Co., 59 Md. 96. Balto. City v. Merryman, 86 Md. 591. Cf., Baltimore v. Ritchie, 51 Md. 233. Helfrich v. Catonsville W. Co., 74 Md. 269.

#### (E) SELECTION OF JURY.

P. L. L., (1860) Art. 4, sec. 931. P. L. L., (1888) Art. 4, sec. 919.

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 city may 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 hereinbefore directed, to strike off jurors for the party so refusing or neglecting, so that the number of jurors be reduced to twelve as aforesaid.

#### (F) DUTY OF JURY.

P. L. L., (1860) Art. 4, sec. 932. P. L. L., (1888) Art. 4, sec. 920.

The jurors so remaining shall inquire into, assess and ascertain the sum of money to be paid by the said city for land, spring, brook, water rights or other property which it may deem necessary to purchase and hold or use for the purpose aforesaid.

#### (G) OATH.

P. L. L., (1860) Art. 4, sec. 933. P. L. L., (1888) Art. 4, sec. 921.

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 city.

## (H) INQUISITION.

P. L. L., (1860) Art. 4, sec. 934. P. L. L., (1888) Art. 4, sec. 922.

The said jury shall reduce their inquisition to writing and shall sign and seal the same, and it shall then be returned by said Sheriff to the Clerk of the Circuit Court for said county, and be filed by such clerk 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 city.

## (I) DUTY OF COURT.

P. L. L., (1860) Art. 4, sec. 935. 1876, ch. 19. P. L. L., (1888) Art. 4, sec. 923. 1912, ch. 32.

Within ten days after the return of said inquisition to said court, exceptions may be filed, in writing, by any party interested, showing cause why said inquisition should not be confirmed. If said exceptions be filed, the court shall cause the whole matter to be tried de novo before a jury to be selected and impaneled as juries in ordinary cases at law, and the trial shall be governed by the same rules as to the admission of evidence and instructions to the jury as apply in ordinary law cases. Upon request of any party to the proceedings, or any juror, the jury may be sent to view the premises, under such regulations as the court may, by general rule or special order, provide. From any decision on matter of law made by said court, during such trial, an appeal may be taken to the Court of Appeals, provided, that such appeal be taken within ten days after such decision shall be made, and the Court of Appeals may award costs to either party in its discretion.

Taylor v. Mayor, 45 Md. 576.

## (J) PROPERTY CONDEMNED.

P. L. L., (1860) Art. 4, sec. 936. P. L. L., (1888) Art. 4, sec. 924.

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 city; and such valuation, when paid or tendered to the owner of said property, or his legal representative, shall entitle the city to the use, estate and interest in the same thus valued, as fully as if it had been conveyed by the owner of the same; and the valuation, if not received when tendered, may at any time thereafter be received from the city, without interest, by the said owner or his legal representative.

Mayor, &c. v. Warren Mfg. Co., 59 Md. 96.

## (K) SELECTION OF JURY.

P. L. L., (1860) Art. 4, sec. 937. P. L. L., (1888) Art. 4, sec. 925.

If the twenty jurors summoned as aforesaid shall not appear at the time and place 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.

## (L) COMPENSATION OF JURORS AND SHERIFF.

P. L. L., (1860) Art. 4, sec. 938. P. L. L., (1888) Art. 4, sec. 926.

The jurors so summoned and attending shall be allowed the same compensation as is allowed to the jurors in the Circuit Court for the county, and the Sheriff shall be allowed similar fees as are allowed by law for the summoning jurors to attend Circuit Court for 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 city, except in cases of objection to the confirmation of inquisitions before the Circuit Court, when the costs in said Court may be awarded in the discretion of the Court.

Paragraphs D to L, both inclusive, superseded by Act of 1914, ch. 463, quoted in Appendix.

## (M) WATER STOCK.

1870, ch. 24. P. L. L., (1888) Art. 4, sec. 927.

For the purpose of defraying all the expenses and costs of lands, waters and water rights as 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 city shall have authority, in the name of the city, to issue certificates of debt, to be denominated on the face Baltimore Water Stock to an amount not exceeding five million dollars bearing interest not exceeding six per cent. per annum, and to provide by ordinance for the redemption of the same at a certain time, under such provisions as the city may deem expedient and proper. The said city is authorized and empowered to assess rates for the supply and use of water at any point in Baltimore City or County, and also 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 city, said payments to be enforced by the same process that city or State taxes are collected, or that 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. The said city is authorized and empowered to appoint watchmen or such police force as may be necessary for the protection of its 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 and collected as other fines and penalties are enforced and collected by law.

No authority to issue loan under.

Baltimore v. Bond, 104 Md. 590.

### (X) WATER BONDS.

1886, ch. 121. P. L. L., (1888) Art. 4, sec. 928.

To issue bonds or certificates of indebtedness to an amount not exceeding one million dollars, from time to time, as the same may be required, payable at such time and bearing such rate of interest not exceeding five per cent. per annum as the said city shall provide by ordinance, the proceeds of the said bonds or certificates of indebtedness to be applied to the purpose of constructing and completing Lake Clifton, as proposed to be constructed on the line of the work of the introduction of the water of the Gunpowder Falls to the City of Baltimore, and for the acquisition of the necessary land in Baltimore County, whereon to locate one or more reservoirs, and for the construction of said reservoir or reservoirs, and for obtaining such pumping machinery as may be necessary in connection therewith, and for procuring and laying of iron pipes or mains for the purpose of distributing said water to the inhabitants of said city; provided, however, that the said bonds or certificates of indebtedness shall not be issued until the ordinance which the city is authorized to enact for such issue shall be approved by a majority of the legal voters of Baltimore City, at the time and place to be appointed by said ordinance in the provisions for submitting the same to the legal voters of said city, as required by section 7 of Article XI of the Constitution of the State.

### (O) WATER SYSTEM IN ANNEX AND SUBURBS.

P. L. L., (1860) Art. 4, sec. 940. P. L. L., (1888) Art. 4, sec. 930. 1888, ch. 98, sec. 25.

Before the city shall lay any water pipes along any street, road, lane or avenue in the territory annexed to the City of

Baltimore under the provisions of the Act of 1888, Chapter 98, upon which the Catonsville Water Company has laid its pipes and other water appliances, the said city shall, if said company desires to surrender said pipes and water appliances in such street, road, lane or avenue, to the city, pay to the said company the fair value of its water pipes and other water appliances constructed in said street, lane, road or avenue, and such actual damages to the said company as shall be caused by the acquisition of said pipes and appliances by the city; and the amount so to be paid, if the said company and the said city cannot agree in reference, thereto, shall be ascertained by a majority of a board of three arbitrators, one to be appointed by the city, and one by said company, and the two arbitrators thus appointed shall appoint the third arbitrator; and if they cannot agree upon such third arbitrator the latter shall be appointed by the Governor of the State; provided, whenever the Mayor and City Council of Baltimore shall extend its water mains for the purpose of supplying water therein into the territory of Baltimore County previously occupied by some other water company then supplying water to residents of such locality, said Mayor and City Council of Baltimore, before it shall supply water to users in said territory, shall purchase or condemn the water pipes and rights of said local water company. To purchase all the property, rights, estates 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 city 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 city and such corporation or corporations; and such corporation is authorized to execute a conveyance to the city 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 city as fully in every respect as might or could have been done by any such corporation or corporations under their respective charters.

Balto. City v. Balto. Co. Water & Electric Co., 95 Md. 242.

### (31) WELFARE AND OTHER POWERS.

The foregoing or other enumeration of powers in this Article shall not be held to limit the power of the Mayor and City Council of Baltimore, in addition thereto to pass all ordinances not inconsistent with the provisions of this Article or the laws of



the State as may be proper in executing any of the powers, either express or implied, enumerated in this section and elsewhere in this Article, as well as such ordinances as it may deem expedient in maintaining the peace, good government, health and welfare of the City of Baltimore; and it may provide for the enforcement of all such ordinances by such penalties and imprisonments as may be prescribed by ordinance; but no fine shall exceed five hundred dollars, nor imprisonment exceed twelve months for any offense.

*Bostock v. Sams*, 95 Md. 415. *Cf.*, *Commrs. of Easton v. Covey*, 74 Md. 262. *Deems v. Mayor & C. C. of Balto.*, 80 Md. 164.

Regulations concerning the removal of garbage and offal are valid exercise of the police power.

*Wm. R. Schultz v. State of Maryland*, 112 Md. 211.

Ordinance passed in pursuance of provision of Charter has same effect as Act of Legislature, and supersedes within city limits provision of State Law.

*Gould v. Baltimore*, 119 Md. 534.

1908, ch. 54.

6A. Whenever the Mayor and City Council of Baltimore shall condemn any land for a street, square, lane, alley, bridge or its approaches, or reservoir, or for an esplanade, boulevard, parkway, parkgrounds or public reservation around, adjacent, opposite or in proximity, or leading to a public building or buildings, or land adjoining such esplanade, boulevard, parkway, park grounds, or public reservation as authorized by the next preceding section, or for a schoolhouse, engine house, courthouse or market, or shall condemn any land for the purpose of erecting thereon any building, structure or improvement of any description, intended for a public or municipal use or uses, in all such cases the absolute and unqualified fee simple title to such land, or, when the proceeding is in personam, all the right, title and interest of the owner or owners who are made parties to the proceeding, if they should not be the owners of the entire fee simple title, shall be condemned and acquired, so that neither the said land nor any interest therein, shall under any circumstances revert to the person or persons who shall be the owner or owners thereof at the time of the condemnation, or who shall be parties to such proceeding in personam, nor to any person or persons claiming under him, her or them; provided, however, that when the condemnation shall be provided for by ordinance, the Mayor and City Council of Baltimore may determine, and in the ordinance providing for the condemnation declare, that an interest for a fixed and limited period of time will suffice for the purpose

or purposes for which the property is to be acquired, and under such circumstances, only such interest shall be condemned and acquired.

1910, ch. 571.

6B. The Mayor and City Council of Baltimore shall have full power and authority to establish or maintain, directly or by contract, reasonable facilities for the public recreation.

## FRANCHISES.

7. The title of the Mayor and City Council of Baltimore, in and to its water front, wharf property, land under water, public landings, wharves and docks, highways, avenues, streets, lanes, alleys and parks, is hereby declared to be inalienable.

Townsend, Grace & Co. v. Epstein, 93 Md. 537. Purnell v. McLane, 98 Md. 591. Brauer v. Refrigerating Co., 99 Md. 380. *Cf.*, Westminster Water Co. v. Westminster, 98 Md. 551.

1904, ch. 616. 1906, ch. 152.

8. The Mayor and City Council of Baltimore may grant for a limited time and subject to the limitations and conditions contained in this Article, specific franchises or rights in or relating to any of the public property or places mentioned in the preceding section; provided that such grant is in compliance with the requirements of this Article, and that the terms and conditions of the grant shall have first been authorized and set forth in an ordinance duly passed by the city. Every such grant shall specifically set forth, define the nature, extent and duration of the franchise or right thereby granted, and no franchise or right shall pass by implication under any such grant; and, notwithstanding any such grant the Mayor and City Council of Baltimore shall at all times have and retain the power and right to reasonably regulate in the public interest the exercise of the franchise or right so granted; and the said Mayor and City Council of Baltimore shall not have the power by grant or ordinance to divest itself of the right or power to so regulate the the exercise of such franchise or right. But no franchise shall be granted for the erection on any of the streets, lanes, or alleys of the said city of any awning poles, posts, hitching posts, barber poles, railings, stepping stones, sign posts, horse troughs, clocks, stands of any character, or cellar doors or coal holes, unless the same be flush with the pavement; nor shall any franchise be granted for an open area, unless the same is used as a means of entrance to buildings used primarily for purposes of residence,

and only in such case when the same does not extend more than three and one-half feet from the building line.

Townsend, Grace & Co. v. Epstein, 93 Md. 537. Purnell v. McLane, 98 Md. 589. Simon's Sons v. Md. Telephone Co., 99 Md. 141. Brauer v. Refrigerating Co., 99 Md. 380. Storek v. Baltimore City, 101 Md. 476.

In relation generally to franchises granted by the municipality, *see*:

Baltimore v. Clunet, 24 Md. 469. N. Balto. Pass. R. R. Co. v. N. Ave. Ry. Co., 74 Md. 243. N. Balto. Pass. R. R. Co. v. Baltimore, 74 Md. 250. Bonaparte v. Lake Rol. Elv. R. R. Co., 75 Md. 340. Lake Rol. Elv. R. R. Co. v. Balto., 77 Md. 372-379. State *ex rel.* v. Latrobe, 81 Md. 222. Park Tax Case, 84 Md. 1. Hooper v. Balto. City Pass. Ry. Co., 85 Md. 509. Bear Creek Co. v. Baltimore City, 87 Md. 84. Baltimore City v. N. C. Ry. Co., 88 Md. 691. Ches. & Pot. Telephone Co. v. Baltimore City, 89 Md. 689. Mealey v. Mayor of Hagerstown, 92 Md. 752. Balto. County Water Co. v. Baltimore, 95 Md. 242. Consolidated Gas Co. v. Schreiber, 99 Md. 403. Referred to in The Patapsco Electric Co. v. M. & C. C., 110 Md. 310.

#### TERMS AND CONDITIONS OF GRANTS AND FRANCHISES.

9. No franchise or right in relation to any highway, avenue, street, lane or alley, either on, above or below the surface of the same, shall be granted by the Mayor and City Council of Baltimore to any person or corporation for a longer period than twenty-five years, but such grant may, at the option of the city, provide for giving to the grantee the right, on fair re-valuation, including in such re-valuation the value derived from the said franchise or right, to renewals not exceeding in the aggregate twenty-five years. Such grant may provide that upon the termination of the said franchise or right granted by the City, the plant, as well as the property of the grantee situated in, above or under the highways, avenues, streets, lanes or alleys aforesaid, with its appurtenances, shall thereupon be and become the property of the city, without further or other compensation to the grantee; or such grant may provide that upon such determination, there shall be a fair valuation of the plant and property, which shall be and become the property of the city at its election, on paying the grantee said valuation. If, by virtue of the grant, the plant and property are to become the property of the city, without money payment therefor, the city shall have the option, either to take and operate the said property on its own account, or to renew the said grant for not exceeding twenty-five years on a re-valuation, or sell the same to the highest bidder at public sale. If the original grant shall prescribe that the Mayor and City Council of Baltimore shall at its election make payment for such plant and property, such payment shall be at a fair valuation of the same as property,

excluding any value derived from the franchise or right and if the city shall make payment for such plant and property, it may, in that event, operate the plant and property on its own account for five years, after which it may determine either to continue such operation on its own account or to lease the said plant and property and the said franchise or right to use the highways, avenues, streets, lanes and alleys or other public property in connection therewith, for limited periods, under such rules and regulations as it may prescribe, or to sell the plant and property to the highest bidder at public sale. Every grant of any such franchise or right shall make provision, by way of forfeiture or otherwise, of the grant for the purpose of compelling compliance with the terms of the grant, and to secure efficiency of public service at reasonable rates, and the maintenance of the property in good condition, throughout the full term of the grant. The grant shall also specify the mode of determining the valuations and re-valuations which may be provided for therein.

*Purnell v. McLane*, 98 Md. 589. *Brauer v. Refrigerating Co.*, 99 Md. 380. *Consolidated Gas Co. v. Schreiber*, 99 Md. 403. *Cf.*, *Mealy v. Mayor of Hagerstown*, 92 Md. 741.

1900, ch. 109.

10. Before any grant of the franchises or right to use any highway, avenue, street, lane or alley, or other public property, either on, above or below the surface of the same shall be made, the proposed specific grant, except as provided in the proviso to section 37 of this Article, embodied in the form of a brief advertisement, prepared by the Board of Estimates, at the expense of the applicant, shall be published by the Comptroller for at least three days in one daily newspaper published in Baltimore City to be designated by the Board of Estimates, and all the provisions of section 37 of this Article shall be complied with.

*Purnell v. McLane*, 98 Md. 591. *Brauer v. Refrigerator Co.*, 99 Md. 380.

Turnpikes and private streets are held to come under this Section when used for the purpose of supplying electric current by means of wires and poles.

*The Patapsco Electric Co. v. M. & C. Co.*, 110 Md. 310.

11. When the grant of a franchise or right is made in compliance with the foregoing sections, the Mayor and City Council of Baltimore shall not part with, but shall expressly reserve the right and duty, at all times, to exercise, in the interest of the public, full municipal superintendence, regulation and control, in respect to all matters connected with said grant and not inconsistent with the terms thereof.

Purnell v. McLane, 98 Md. 591. Brauer v. Refrigerating Co., 99 Md. 380. *Cf.*, N. C. Ry. Co. v. Baltimore, 21 Md. 104.

12. Sections 8, 9, 10 and 11 of this Article shall apply to any renewal or extension of the grant or leasing of the property to the same grantee or to others.

1910, ch. 593. 1912, ch. 32.

13. Nothing contained in this Article shall prevent the Mayor and City Council of Baltimore, from, in any manner, disposing of any building or parcel of land no longer needed for public use; provided, that such disposition shall be authorized and provided for by ordinance, and shall be approved by the Commissioners of Finance by their uniting in the conveyance thereof, and shall be made at public sale, unless a private sale be expressly authorized by the Board of Estimates and so entered on their minutes: nor from renting for fixed and limited terms any of its property not needed for public purposes, on approval of the Commissioners of Finance.

For decisions in relation to disposition of its lands and property by the municipality, *see*,

Rittenhouse v. Mayor, 25 Md. 336. Newbold v. Glenn, 67 Md. 489. Kilpatrick v. M. & C. C. of Balto., 81 Md. 195. Davidson v. Balto. City, 96 Md. 509.

City may rent city property for entertainments at times when not needed for public purposes.

Gottlieb-Knabe Co. v. Macklin, 109 Md. 429.

1912, ch. 429.

14. Hereafter, in contracting for any public work, or the purchase of any supplies or materials, involving an expenditure of five hundred dollars or more for the city, or by any of the city departments, sub-departments, or municipal officers not embraced in a department, or special commissions or boards, unless otherwise provided for in this article, advertisements for proposals for the same, shall be first published in two or more daily newspapers published in Baltimore City, twice or oftener, the first publication to be made not less than ten nor more than twenty days prior to the day set for opening the bids; and the contract for doing said work or furnishing said supplies or materials, shall be awarded by the board provided for in the next section of this article, and in the mode and manner as therein prescribed.

American Lighting Co. v. McCuen, 92 Md. 702. Packard v. Hayes, 94 Md. 233. Smith v. Hayes, 98 Md. 485. Building Supply Co. v. Baltimore City, 100 Md. 192. Flack v. M. & C. C. of Balto., 104 Md. 130.

As to cases arising out of contracts with city prior to the enactment of the New City Charter, *see* the following:

Baltimore v. Eschbach, 18 Md. 276. Mayor &c. v. Reynolds, 20 Md. 1. Mayor v. B. & O. R. R. Co., 21 Md. 52. Rittenhouse v. M. & C. C. of Balto., 25 Md. 336. Mayor v. Musgrave, 48 Md. 272. Mayor, &c. v. Weatherby, 52 Md. 442. Kelly v. Mayor, 53 Md. 134. Morgan v. M. & C. C. of Balto., 58 Md. 509. Baltimore v. Raymo, 68 Md. 569. Wilson v. Balto. City, 83 Md. 203. *See further*, Mealy v. M. & C. C. of Hagerstown, 92 Md. 741. *See also* cases under Section 15, post.

Alternative system of bidding.

Baltimore City v. Flack, 104 Md. 130.

Selection of material for paving.—Discretion to choose between several kinds may be delegated.

Baltimore v. Gahan, 104 Md. 157.

Notice must be published in English language, unless notice published as required, award of contract will be enjoined.

Bennett v. City, 106 Md. 485.

When the lowest bid is not in conformity with the specifications as advertised, the contract may be awarded to the next lowest bidder.

Maryland Pavement Co. v. Mahool, 110 Md. 397.

The purchases by the Board of Police Commissioners included in their estimate of expenses are not subject to the provisions of this Section and Section 36B construed in connection with Section 747.

Thrift v. Ammidon, 125 Md. —.

#### 1908, ch. 163.

15. All bids made to the Mayor and City Council of Baltimore for supplies or work for any purpose whatever, unless otherwise provided in this article, shall be opened by a board, or a majority of them, consisting of the Mayor, who shall be president of the same, the Comptroller, City Register, City Solicitor, and the President of the Second Branch, which board, or majority of them, shall, after opening said bids, award the contract to the lowest responsible bidder, provided, however, that whenever alternative bids are invited for two or more different things, then the said board shall have power and authority, in its discretion, after all bids have been opened, to select the particular thing which shall be adopted, and thereupon the said board shall award the contract to the lowest responsible bidder for and upon the particular thing so selected, and any recommendations which may be made by any department, sub-department, municipal officers not embraced in a department, special commission or board as to the particular thing to be selected by said board, shall be advisory only, and not binding upon said board; provided, however, that nothing in this Act relative to alternative bidding shall apply to the Annex Improvement Commission created by chapter 274 of the Acts of 1904, providing for the Annex loan subsequently approved by the people of Baltimore City. Bids when filed shall be irrevocable. The

successful bidder shall promptly execute a formal contract to be approved as to its form, terms and conditions by the City Solicitor, and he shall also execute and deliver to the Mayor a good and sufficient bond to be approved by the Mayor in the amount of the contract price. To all such bids there shall be attached a certified check of the bidder upon some clearing house bank, and the bidder who has had the contract awarded to him, and who fails to promptly and properly execute the required contract and bond shall forfeit said check. The said check shall be taken and considered as liquidated damages, and not a penalty, for failure of said bidder to execute said contract and bond. Upon the execution of said contract and bond by the successful bidder, the said check shall be returned to him. The amount of said check shall be five hundred dollars, unless otherwise provided by ordinance, or an order or regulation of the department for whose use the bids are made and contract entered into. The checks of the unsuccessful bidders shall be returned to them after opening the bids and awarding the contract to the successful bidder.

*American Lighting Co. v. McCuen*, 92 Md. 705. *Packard v. Hayes*, 94 Md. 233. *Smith v. Hayes*, 98 Md. 485. *Callaway v. Baltimore*, 99 Md. 315. *Building Supply Co. v. Baltimore City*, 100 Md. 192. *Flack v. Mayor, etc., Baltimore*, 104 Md. 130.

When the lowest bid is not in conformity with the specifications as advertised, the contract may be awarded to the next lowest bidder.

*Maryland Pavement Co. v. Mahool*, 110 Md. 397.

In the absence of fraud or collusion, decision of Board of Awards on responsibility of bidder conclusive.

*Knight v. M. & C. C.*, Daily Record, July 1, 1913.

The bid is irrevocable and cannot be withdrawn or altered after filing.

*Baltimore v. Robinson*, 123 Md. 660.

The certified check deposited at the time of filing a bid is forfeited if the bidder fails to execute the contract and furnish the requisite bond.

*Baltimore v. Robinson*, 123 Md. 660.

P. L. L., (1888) Art. 4, sec. 7. 1914, ch. 512.

16. The inhabitants of the City of Baltimore qualified to vote for members of the House of Delegates shall, on the Tuesday next after the first Monday in May, eighteen hundred and ninety-nine, and on the same day and month in every fourth year thereafter, elect by ballot a person of known integrity, experience and sound judgment, over twenty-five years of age, a citizen of the United States, and ten years a resident of said City next preceding the election, and either assessed with property in said city to the amount of two thousand dollars, and who has paid taxes thereon for two years preceding his election, or who has hitherto held elective, executive or legisla-

tive office under the Government of the United States or the State of Maryland, or the City of Baltimore, to be Mayor of the City of Baltimore; but the Mayor chosen at the first election under this section shall not enter upon the discharge of the duties of the office until the expiration of the term of which the present Mayor was elected, unless the said office of Mayor shall become vacant by death, resignation, removal from the State or other disqualification of the present Mayor.

17. Prior to every municipal election, as provided for in this Article, there shall be, on the first and second Mondays of April, a supplementary registration of voters of Baltimore City, which registration shall be under the supervision of the Supervisors of Election, and conducted in conformity with the provisions of the law then in force relating to the registration of voters. On each day of said registration the registers shall revise the list of registered voters made at their last regular sitting, by adding the names of those persons who are entitled to registration at that time, and striking from said registration lists the names of those persons who have died or become disqualified since the said last sitting, and the registration lists used at the preceding November election, after being revised as herein directed, shall be used at the municipal election in May.

18. In case of vacancy in the office of Mayor by death, resignation or permanent disqualification, the President of the Second Branch of the City Council shall be Mayor for the residue of the term for which the said Mayor was elected.

19. In case of sickness or necessary absence of the Mayor, the President of the Second Branch of the City Council shall be *ex officio* Mayor of the City during the continuance of said sickness or necessary absence.

20. The term of Mayor shall commence on the Tuesday next after the third Monday of May succeeding his election, and continue for four years, and until his successor shall be elected and qualified, and he shall receive a salary of six thousand dollars per annum, payable monthly. He may appoint such persons to aid him in the discharge of his duties as may be prescribed by ordinance.

1906, ch. 420.

20A. Hereafter, all checks of the Mayor and City Council of Baltimore shall be signed by the City Register and counter-



signed by either the Mayor or the City Comptroller and all bonds executed in favor of the Mayor and City Council of Baltimore shall be approved either by the Mayor or by the City Comptroller, and all contracts relative to the respective departments of the City Government, sub-departments, municipal officers not embraced in a department, special commissions or boards, shall be executed on behalf of the Mayor and City Council of Baltimore by either the Mayor or the respective heads of said departments, sub-departments, municipal officers not embraced in a department, special commissions or boards, or the chairman or President as the case may be, of said special commissions or boards.

P. L. L., (1860) Art. 4, sec. 8. P. L. L., (1888) Art. 4, sec. 11.

**21.** The Mayor, by virtue of his office, shall have all the jurisdiction and power, as a conservator of the peace, of a Justice of the Peace, and may call upon any officer of the city entrusted with the receipt or expenditure of public money, for a statement of his account as often as he may think necessary, and may at any time by expert accountants and bookkeepers, examine the books and accounts of any department, sub-department, municipal board, officer, assistant, clerk, subordinate or employe.

Mayor, &c. v. Dechert, 32 Md. 369.

P. L. L., (1860) Art. 4, sec. 9. P. L. L., (1888) Art. 4, sec. 12.

**22.** The Mayor shall see that the ordinances and resolutions are duly and faithfully executed, and shall report to the City Council as soon as practicable after the first day of January in each year, 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. He shall have general supervision over all departments, sub-departments, municipal officers, not embraced in a department and special commissioners or boards.

Baltimore v. Radecke, 49 Md. 217. Cumberland v. Wilson, 50 Md. 138.

P. L. L., (1860) Art. 4, secs. 10, 11. P. L. L., (1888) Art. 4, secs. 13, 14.

**23.** All ordinances or resolutions duly passed by the City Council, after being properly certified by the Presidents of the First and Second Branches of the City Council as having been so passed, shall be delivered by the Clerk of the Branch in which the same originated, to the Mayor for his approval, and there shall be noted on said ordinances or resolutions the date of said delivery; and, when approved by him, they shall become

ordinances or resolutions of the Mayor and City Council of Baltimore. If the Mayor shall not approve of any ordinance or resolution so passed by the City Council he shall return the same with his objections in writing to the Branch in which the said ordinance or resolution originated, within five days of actual regular sittings of said Branch, excluding special sittings called by the Mayor, occurring after such delivery of said ordinance or resolution to him, which objections, upon receipt of the same by said Branch, shall be forthwith read to such Branch and entered at large on its Journal; and such Branch shall, after five days and within ten days after such ordinance or resolution shall have been returned to it by the Mayor, proceed to reconsider and vote upon the same. If such ordinance or resolution shall, after reconsideration, be again passed by three-fourths of all the members elected to said Branch it shall be forthwith sent, with the objections of the Mayor, to the other Branch, and after five days and within ten days, after it is so sent, it shall likewise be reconsidered and voted upon also by said other Branch, and if passed by a vote of three-fourths of all the members elected to said other Branch it shall be and become, to all intents and purposes, an ordinance or resolution of the Mayor and City Council of Baltimore. In such cases, after said reconsideration, the votes on the question of the passage of such ordinance or resolution over the veto of the Mayor shall be determined by yeas and nays, and the names of the persons voting for and against the passage of said ordinance or resolution over the veto of the Mayor shall be entered on the respective Journals of each Branch of the City Council. If any ordinance or resolution duly passed by the City Council shall not be returned by the Mayor to the Branch of the City Council in which the same originated within five days of its actual regular sittings, excluding special sittings called by the Mayor, after it shall have been delivered to him, the same shall become an ordinance or resolution of the Mayor and City Council of Baltimore in the same manner as if the Mayor had approved it, unless the City Council by an adjournment *sine die*, or for a period exceeding one month, shall prevent its return. In case an ordinance or resolution duly passed by the City Council shall embrace different items of appropriation the Mayor may approve the provisions thereof relating to one or more items of appropriation and disapprove the others, and in such case those he shall approve shall become effective and those which he shall not approve shall be reconsidered in manner and form as hereinbefore prescribed in this section, by both Branches of the City

Council, and shall become effective if again passed over the veto of the Mayor by the vote as above prescribed for the passage over the veto of the Mayor of entire ordinances or resolutions. The mode and manner of procedure of both Branches of the City Council and of the Mayor in the matter of the veto of one or more distinct items of appropriation in any ordinance or resolution shall be the same as the mode and manner of procedure prescribed in this section for the passage of an entire ordinance or resolution over the veto of the Mayor.

Baltimore City v. Gorter, 93 Md. 1. See note to Hooper v. Creager, 84 Md. 197. Heiskell v. Mayor, 65 Md. 149. Also, Murdoch v. Strange, 99 Md. 89.

24. The Mayor shall summon all the heads of departments to a conference on municipal matters at least once in each fiscal year, and oftener, if he thinks the public interests will be promoted thereby, and every head of department shall report to him, orally or in writing, as he may prefer, once in every month.

P. L. L., (1860) Art. 4, sec. 26. 1880, ch. 101. P. L. L., (1888) Art. 4, sec. 31.

25. The Mayor shall have the sole power of appointment of all heads of departments, heads of sub-departments, municipal officers not embraced in a department and all special commissioners or boards, except as otherwise provided in this Article, subject to confirmation by a majority vote of all the members elected to the Second Branch of the City Council; provided said Second Branch shall take action on such nomination within the first three regular succeeding sittings of said Branch after said nominations are sent to it by the Mayor. If the Branch fails to take such action within said time, then the person or persons so nominated shall be to all intents and purposes such officer or officers as if they had been confirmed by said Second Branch. If said Second Branch shall, by the required vote and in the prescribed time, refuse to confirm such nominations, the Mayor shall, within the next three regular succeeding sittings of said Branch, send to it other name or names for such office or offices, and the duties of said Second Branch and the Mayor shall continue to be as above prescribed until a confirmation is had or a failure to act for three regular succeeding sittings by the said Second Branch occurs. The Mayor shall have the power to remove at pleasure, during the first six months of their respective terms, the heads of all departments or members thereof, heads of sub-departments or members thereof, municipal officers not embraced in a department and special commissions

or boards, or members thereof, appointed by him, but after six months the Mayor shall only remove said officials for cause, after charges preferred against them, notice given and trial had before the Mayor. The terms of all municipal officials appointed by the Mayor shall be four years, unless otherwise provided for in this Article. All municipal officials who are appointed by the Mayor shall be appointed in the month of September succeeding his election, and enter into their respective offices on the first Monday in October, immediately following their respective appointments, or as soon thereafter as their appointments have been confirmed, as above provided, if appointed or confirmed subsequent thereto; but the Mayor first chosen under this Article shall appoint said officials in the month of February succeeding his election, subject to confirmation by the Second Branch of the City Council, and they shall enter upon their duties on the succeeding first of March, and shall hold office until their successors under the provisions of this Article, are appointed and qualified unless sooner removed under the provisions of this Article. All municipal officials, boards and commissioners in office under the Mayor and City Council of Baltimore, upon the date of the passage of this Article, unless otherwise provided in this Article, shall hold their respective offices under existing laws and ordinances, the same as if this Article had not been passed, until their successors are appointed, as provided in this section, in February nineteen hundred; they shall be subject to removal, as provided in said laws and ordinances, and all vacancies occurring in said offices shall be filled as now provided for in said existing laws and ordinances; said municipal officials, boards and commissioners shall perform the duties respectively now prescribed by existing laws and ordinances which are not inconsistent with the provisions of this Article, and they shall also perform such additional duties as may be required to be performed by such officers in this Article. The Mayor first elected under the provisions of this Article, shall organize the municipal government of Baltimore City, as provided for in said Article, and appoint the heads of departments, sub-departments, municipal officers, boards and commissions provided for therein, in the month of February, nineteen hundred. All persons appointed by the Mayor, as well as those municipal officials elected by the people or by the joint convention of the City Council, shall, before entering upon the discharge of their respective duties, qualify by taking before the Mayor an oath to faithfully perform the duties of their respective offices, and that they will support the Laws and Constitutions of the United States and of the State of Maryland. A

test book shall be kept by the Mayor, which shall be signed at the time of taking the oath aforesaid by said officials, and after the qualifications aforesaid, the Mayor shall issue to the said officials a commission signed by himself with the corporate seal attached. All vacancies occurring in any of the offices which the Mayor is empowered to fill, during the recess of the Second Branch, unless otherwise provided in this Article, shall be filled by the Mayor until the next regular meeting of the Second Branch, at which meeting the Mayor shall present the name of a person for confirmation to fill said vacancy, and the mode and manner of procedure in such a case shall be the same as provided for in this section for other appointments by the Mayor and confirmation by the Second Branch.

On construction of section 25, *see* *Robinson v. Baltimore City*, 93 Md. 212. *McClellan v. Marine*, 98 Md. 54. *Baltimore City v. Lyman*, 92 Md. 591.

As to oath of office and its legal significance, *see* *Thomas v. Owens*, 4 Md. 189. *Harwood v. Marshall*, 9 Md. 83. *Jump v. Spence*, 28 Md. 1. *Archer v. State*, 74 Md. 447; *Creager v. Hooper*, 83 Md. 501. *Davidson v. Brice*, 91 Md. 691.

As to term of and title to office, *see* *Thomas v. Owens*, 4 Md. 189, 15 Md. 465. *Jump v. Spence*, 28 Md. 1. *Robb v. Carter*, 65 Md. 334. *Archer v. State*, 74 Md. 453. *County Commissioners v. School Commrs.*, 77 Md. 283. *Miles v. Stevenson*, 80 Md. 366. *Creager v. Hooper*, 83 Md. 490. *Ash v. McVey*, 85 Md. 130. *Wells v. Monroe*, 86 Md. 445. *Duer v. Daniell*, 91 Md. 660. *Keyser v. Upshur*, 92 Md. 778. *Hagerstown v. Williams*, 96 Md. 237.

As to power of appointment and removal, *see* *Townsend v. Kurtz*, 83 Md. 340. *Hooper v. Creager*, 84 Md. 241. *Hooper v. New*, 85 Md. 565. *Hooper v. Farnen*, 85 Md. 587. *Field v. Malster*, 88 Md. 691. *School Commrs. v. Goldsborough*, 90 Md. 193. *Street Commrs. v. Williams*, 96 Md. 237.

1880, ch. 101. P. L. L., (1888) Art. 4, sec. 31.

26. No person shall at any time hold more than one office yielding pecuniary compensation under the Mayor and City Council of Baltimore. All municipal officials, except females, shall be registered voters of the City of Baltimore.

*Baltimore City v. Lyman*, 92 Md. 591.

27. All heads of departments, heads of sub-departments, municipal officers not embraced in a department, or special commissions or boards, provided for in this Article, shall hold their offices until their successors are appointed or elected and qualified.

28. The heads of departments, heads of sub-departments, municipal officers not embraced in a department, and all special

commissions or boards shall have the sole power of appointment and removal at pleasure of all deputies, assistants, clerks and subordinate employees employed by them, unless otherwise provided in this Article.

Baltimore City v. Lyman, 92 Md. 611. American Lighting Co. v. McCuen, 92 Md. 705. As to appointment of subordinates prior to new charter, *see* Hooper v. New, 85 Md. 565.

29. All heads of departments, shall have the privilege of the floor in the First Branch of the City Council at its sittings, and shall be entitled to participate in the discussion of matters relating to their respective departments, but shall have no vote. When the head of a department is a Board, or composed of more than one person, the President thereof shall be entitled to the privilege provided for in this section.

30. The Mayor, in appointing all heads of departments, sub-departments, boards and commissions or members of any such, composed of more than one person, shall appoint a minority of the members of each of such bodies of persons from a different political party from those forming the majority of said departments, sub-departments, boards and commissions or members of any such, and in ascertaining the political party from which such minority representatives shall be taken, he shall select from that party which cast the next highest vote at the preceding election.

#### EXECUTIVE DEPARTMENT.

31. The executive power of the Mayor and City Council of Baltimore shall be vested in the Mayor, the departments, sub-departments, municipal officers not embraced in a department herein provided for, and such special commissioners or boards as may hereafter be provided for by laws, or ordinances not inconsistent with this Article. All municipal officials, unless otherwise provided for by laws or ordinances, shall give bond to the city for the faithful discharge of their duties, to be approved by the Mayor, and in such penalties as may be prescribed by laws or ordinances. The Mayor shall be the chief executive officer of the city, and in addition to the following administrative departments, sub-departments, and municipal officers not embraced in a department, there shall be such assistants, clerks and employees to said departments, sub-departments and municipal officers as may be prescribed by ordinances not inconsistent with this Article not herein otherwise provided for. The several heads of

departments, heads of sub-departments, municipal officers not embraced in a department, and special commissions or boards, shall have the power to pass such rules and regulations, not inconsistent with the laws or ordinances, for the government of their respective departments as they may deem right and proper. All heads of departments composed of Boards shall hold at least one meeting every month for the purpose of consultation and advice, and in order to become familiar with the business and the mode of conducting the same, of the sub-departments of their respective departments. A record of all the proceedings and official acts of heads of departments and sub-departments, municipal officials and commissioners shall be kept in a well-bound book, and a certified copy of said record or any part thereof under the corporate seal of the city shall be admissible in evidence in any Court of this State as proof of such record or part thereof.

The said executive departments shall be as follows :

(I) *Department of Finance,*

With the following sub-departments :

1. Comptroller.
2. City Register.
3. Board of Estimates.
4. Commissioners of Finance.
5. City Collector.
6. Collector of Water Rents and Licenses.

(II) *Department of Law.*

Composed of

City Solicitor.

(III) *Department of Public Safety,*

With the following sub-departments :

1. Board of Fire Commissioners.
2. Commissioner of Health.
3. Inspector of Buildings.
4. Commissioner of Street Cleaning.

(IV) *Department of Public Improvements,*

With the following sub-departments :

1. City Engineer.
2. Water Board.
3. Harbor Board.
4. Inspector of Buildings.

(V) *Department of Parks and Squares.*

Composed of

Board of Park Commissioners.

- (VI) *Department of Education.*  
 Composed of  
 Board of School Commissioners.
- (VII) *Department of Charities and Corrections,*  
 With the following sub-departments:  
 1. Supervisors of City Charities.  
 2. Visitors to the Jail.
- (VIII) *Department of Review and Assessment,*  
 With the following sub-departments:  
 1. Appeal Tax Court.  
 2. Commissioners for Opening Streets.
- (IX) *Division Embracing Municipal Officers, not Included  
 in any Department:*  
 1. City Librarian.  
 2. Art Commission.  
 3. Superintendent of Lamps and Lighting.  
 4. Surveyor.  
 5. Constables.  
 6. Superintendent of Public Buildings.  
 7. Public Printer.

Baltimore City v. Lyman, 92 Md. 600.

As to bonds of municipal officials, *see* Hecht v. Coale, 93 Md. 692.  
 Vansant v. State, 96 Md. 110. Murdoch v. Strange, 99 Md. 89.

As to breach, penalty and damages recoverable generally in relation  
 to bonds, *see* Mutual Life Insurance Company v. Hantske, Daily Record,  
 December 15, 1900.

## DEPARTMENT OF FINANCE.

32. There shall be a Department of Finance of the Mayor and City Council of Baltimore which shall consist of the Comptroller, City Register, Board of Estimates, Commissioners of Finance, City Collector and Collector of Water Rents and Licenses. The head of said Department shall consist of a Board of Finance composed of the Comptroller, City Register, President of the Board of Estimates, President of the Commissioners of Finance, City Collector and Collector of Water Rents and Licenses. This Board shall be for consultation and advice, and it shall have no power to direct or control the duties or the work of any sub-department. It shall perform such other duties as may be prescribed by ordinances not inconsistent with this Article. The Comptroller shall be the President of said Board. The fiscal year of the Mayor and City Council of Baltimore shall begin on the first day of January and end on the thirty-first day of December in every year.



1906, ch. 459.

33. The Comptroller shall be elected by the inhabitants of the City of Baltimore qualified to vote for Mayor on the Tuesday next after the first Monday in May, in the year eighteen hundred and ninety-nine, and on the same day and month in every fourth year thereafter. He shall be a person possessing the same qualifications as herein prescribed for Mayor. The term of the Comptroller shall commence on the Tuesday next after the third Monday in May in the year eighteen hundred and ninety-nine, and continue for four years, and until his successor is elected and qualified, and he shall receive a salary of four thousand dollars per annum, payable monthly.

Baltimore City v. Lyman, 92 Md. 610.

34. The Comptroller shall be the head of the first sub-department of Finance, and he shall appoint a Deputy Comptroller and such clerks as may be provided for by ordinance, including one to be known as the Audit Clerk, and another for the collection of harbor and wharf rents, to be known as Harbor Master, with such assistants to him as may be provided for by ordinance, and another for the collection of fees for the inspection of weights and measures, to be known as the Inspector of Weights and Measures, with such assistants to him as may be provided for by ordinance, and another to be known as Market Master, with such assistants to him as may be provided by ordinance. The salary of such Deputy, assistants and clerks shall be fixed by ordinances. All of such appointees shall be subject to the written approval of the Mayor. The Comptroller shall have general supervision over the financial matters of the city, and shall have oversight of all sub-departments in this department. No claim, account or demand against the city of any kind whatsoever shall be paid unless first audited and approved by the Comptroller. All moneys collected for the use of the city by any municipal official, unless otherwise provided in this Article, shall be turned over to the Comptroller and by him deposited with the City Register. He shall perform such other duties as may be prescribed by ordinances, not inconsistent with this Article. In case of temporary absence or disqualification of the Comptroller, or a vacancy occurring in said office from any cause, the Deputy Comptroller shall, during such absence or disqualification or vacancy from any cause, act as Comptroller. The Second Branch of the City Council by a majority vote of all the members elected to said Branch, may remove the Comptroller from office for incompetency, wilful

neglect of duty or misdemeanor in office, upon charges preferred by the Mayor, and after notice of such charges is given to the Comptroller and an opportunity afforded him to be heard by said Branch.

1908, ch. 131.

35. The City Register shall be the head of the second sub-department of finance, and he shall be the register of the public debt and also the custodian of all moneys belonging to the Mayor and City Council of Baltimore. He shall be appointed by a joint convention of the two Branches of the City Council on the Tuesday next after the fourth Monday of May in the year eighteen hundred and ninety-nine, and on the same day and month in every fourth year thereafter. His salary shall be three thousand and three hundred dollars per annum, payable monthly, in addition to three hundred dollars for services rendered the State, as provided for in section 108 of Article 81, Code of Public General Laws. The Second Branch of the City Council, by a majority vote of all the members elected to said Branch, may remove the City Register from office for incompetency, wilful neglect of duty or misdemeanor in office, upon charges preferred by the Mayor, and after notice of such charges is given to the City Register, and an opportunity afforded him to be heard by said Branch. The City Register shall take under his charge and keeping the corporate seal of the city, and use it in all cases which are now or may be hereafter required by Federal or State laws, ordinances, or the uses and customs of nations, and shall charge a fee of two dollars for each impression of the seal, except such as shall be affixed to or impressed upon documents for the Mayor and City Council, or used in connection with the affairs of the city. He shall pay to the Comptroller, for the use of the Mayor and City Council of Baltimore, all fees so received by him. He shall have power to appoint a deputy register, with a salary of two thousand dollars per annum, payable monthly, and such other clerical assistants as may be prescribed by ordinance not inconsistent with this Article. In case of a vacancy occurring in the office of City Register by removal or otherwise, the joint convention of the two Branches of the City Council shall forthwith fill said vacancy. He shall perform such other duties as may be prescribed by ordinance not inconsistent with this Article; provided, the present incumbent of the office of the City Register shall hold his office until the expiration of his term, as now provided under existing laws and ordinances, and

should a vacancy occur in said office a successor shall be appointed by a joint convention of the City Council for the balance of said term.

State v. Mayor, &c., 52 Md. 398. Robb v. Carter, 65 Md. 321. Baltimore City v. Lyman, 92 Md. 610.

1910, ch. 512.

**35a.** That the Mayor and City Council of Baltimore be and it is hereby directed to pay all monthly salaries to all officials or employees whose salaries are paid by or through the Mayor and City Council of Baltimore, one-half on the first and one-half on the fifteenth day of each month, unless otherwise provided by ordinance.

## BOARD OF ESTIMATES.

### ORDINANCE OF ESTIMATES.

1904, ch. 677.

**36.** The Board of Estimates shall be the head of the third Sub-Department of Finance, and shall consist of the Mayor, City Solicitor, Comptroller, President of the Second Branch City Council and President of the Board of Public Improvements. The first meeting of said Board in every year shall be called by notice from the Mayor or President of the Second Branch City Council personally served upon members of the said Board. Subsequent meetings shall be called as the said Board may direct. The President of the Second Branch shall be President of said Board, and one of the number shall act as secretary, and said Board may employ such clerks as may be necessary to discharge its duties; their number and compensation shall be fixed by ordinance. The said Board shall have power at any time to summon before it the heads of the departments and sub-departments and all municipal officers and special commissions or boards. The said Board shall annually, between the first day of October and the first day of November, meet, and by an affirmative vote of a majority of all the members make out the following three lists of moneys to be appropriated by the City Council for the next ensuing fiscal year:

FIRST, a list to be known as the "DEPARTMENTAL ESTIMATES" of the amounts estimated to be required to pay the expenses of conducting the public business for the next ensuing fiscal year, including the expenditures for the City Council for the salaries of its members, officers, and expenses;

said list shall be prepared in such detail as to the aggregate sum and the items thereof allowed to the two Branches of the City Council, each department, sub-department, municipal officers not embraced in a department and special commissioners and boards as the said Board shall deem advisable. In order to enable said Board to make such list, the Presidents of the two Branches of the City Council, the heads of the departments, heads of sub-departments, municipal officers not embraced in a department, and special commissioners or boards shall, at least thirty days before the said list is hereby required to be made, send to the said Board in writing, estimates of the amounts needed for the conduct, respectively, of the City Council, departments, sub-departments, municipal officers not embraced in a department, commissioners or boards for the next ensuing fiscal year. Such estimates shall be verified by the oath or affirmation of persons making them, and a wilfully false statement made in a material matter contained in said estimates so made to said Board shall be perjury. The said estimates shall specify, in detail, the objects thereof, and the items required for the expenses of the City Council and the respective departments, sub-departments, municipal officers not embraced in a department and special commissioners or boards, as aforesaid, including a statement of each of the salaries of the members of the City Council and its officers and clerks, and the salaries of the deputies, assistants, clerks, employees and subordinates in each department, sub-department, municipal office or special commission or board.

SECOND, a list containing all amounts to be appropriated by the City Council for NEW IMPROVEMENTS to be constructed by any department of the city during the next ensuing fiscal year; said list to be known as the "ESTIMATES FOR NEW IMPROVEMENTS." Heads of departments, heads of sub-departments, municipal officers not embraced in a department, and special commissioners or boards shall in writing, thirty days before the time required to make such list by said Board, file with said Board their recommendations as to the amounts which they may consider will be needed in their respective departments for new improvements during the next ensuing fiscal year.

THIRD, a list containing all amounts which by previous laws, ordinances or contracts are required to be ANNUALLY APPROPRIATED to charities, educational, benevolent or reformatory institutions by the city, as well as all other sums, if any, which may be required by laws or ordinances to be

appropriated for other purposes not embraced in the preceding lists. This list shall be known as the "ESTIMATES FOR ANNUAL APPROPRIATIONS." The purpose and object of this provision is that said three lists shall embrace all moneys to be expended for the next ensuing fiscal year for all purposes by the city. After said three lists have been prepared, the Board of Estimates, shall cause to be prepared a draft of an ordinance to be submitted to the City Council providing appropriations sufficient to meet the amounts called for by said three lists, and the said Board shall cause a copy of said proposed ordinance, certified by the signatures of a majority of them, to be forthwith published in two daily newspapers in Baltimore City, for two successive days, and shall, immediately after said publication, transmit a copy of the draft of the said proposed ordinance to the President of each Branch of the City Council, whereupon a special meeting of the City Council shall be forthwith called by the Mayor to consider such proposed ordinance. It shall be the duty of the two Branches of the City Council, when so assembled, to consider and investigate the estimates contained in said proposed ordinance, and to hold daily sessions for its consideration until said ordinance is passed. The two Branches of the City Council, by a majority vote of all the members elected to each Branch, may reduce the said amounts fixed by the said Board in said proposed ordinance, except such items thereof as are now or may hereafter be fixed by law, and except such items as may be inserted by said Board to pay State taxes, and to pay the interest and principal of the municipal debt. The City Council shall not have the power to increase the amounts fixed by the Board nor insert new items in the proposed ordinance. When said proposed ordinance, embracing said estimates, shall have been duly passed by both Branches of the City Council and approved by the Mayor, it shall be known as the "Ordinance of Estimates for the year. . . . .," and said several sums shall be and become appropriated, after the beginning of the next ensuing fiscal year, for the several purposes therein named, to be used by the City Council, departments, sub-departments, municipal officers not embraced in a department, and special commissions or boards therein named, and for no other purposes or uses whatever. The City Council shall not have the power, by any other or subsequent ordinance or resolution, to enlarge any item contained in said ordinance after the same is duly passed, nor shall the City Council, by any subsequent ordinance or otherwise, appropriate any sums of money to be used for the next ensuing fiscal year, for any of the purposes embraced in said Ordinance of Estimates. No

appropriation provided for in said ordinance shall be diverted or used under any circumstances for any purpose than that named in said ordinance, nor shall the Comptroller draw any warrant for any of the items in said Ordinance of Estimates unless he has received said amounts and they are actually to the credit of the City Council and such department, sub-department, officers, commissioners or boards. No temporary loan shall be authorized or made to pay any deficiency arising from a failure to realize sufficient income from revenue and taxation to meet the amounts provided in said Ordinance of Estimates but the City Council may temporarily borrow money for its use in anticipation of the receipts of taxes levied for any year. In case of any such deficiency there shall be a pro rata abatement of all appropriations, except those for the payment of State taxes and the principal and interest of the city debt, and such amounts as are fixed by law and contained in said ordinance; and in case of any surplus arising in any fiscal year by reason of an excess of income received from the estimated revenue over the expenditures for such year, the said surplus shall become a part of the annual revenue of the city, and shall be available for the general expenditures of the city for the next ensuing fiscal year. Until the organization of the said Board of Estimates by the Mayor first elected under the provisions of this Article, as provided in section 25 of said Article, the Mayor, Comptroller, City Register and City Solicitor shall compose a Board to perform all the duties required of the Board of Estimates by the provisions of this Article.

*Baltimore City v. Gorter*, 93 Md. 1. *Skinner Dry Dock Co. v. Baltimore*, 96 Md. 37. *Callaway v. Baltimore City*, 99 Md. 315. *Brauer v. Refrigerating Co.*, 99 Md. 369.

Party obtaining judgment against the city cannot have mandamus to levy a special tax. Must wait until provision is made in the next Ordinance of Estimates.

*Kinlein v. Baltimore*, 118 Md. 576.

The park fund under existing laws is to be applied to park purposes only, and to be expended and distributed for such purposes by the Board of Park Commissioners; and the fact that they had submitted estimates to the Board of Estimates, and spent no moneys not so approved by the Board of Estimates does not estop the Park Commissioners from claiming the right to an injunction to restrain the diversion of the park fund to other purposes.

*Baltimore v. Williams*, 124 Md. 502.

The legislature has the right by law to impose upon the city a portion of the expense of supporting the Public Service Commission. The Act involved in this case provided for a salary of \$3,000.00 to be paid by the State and an additional \$3,000.00 to be paid by the City of Baltimore.

*Thrift v. Laird*, 125 Md. 55.

Right of the Board of Estimates to reduce the amount of the estimate

of the Board of Police Commissioners. Mandamus held to be unnecessary in this case to compel the city to assess and levy the amount required by the Police Department, as the Police Board has the authority to make requests from time to time upon the City Comptroller for their needs. (Construed in connection with Section 747).

McEvoy v. Baltimore, 125 Md. —.

1906, ch. 459. 1914, ch. 80.

**36A.** The Board of Estimates shall have power to increase or decrease the salaries of all municipal officials, and other persons whose salaries are named in this Article or Acts relating to the City of Baltimore, except the salaries of the members of the Board of Estimates, provided the amount of such increase or decrease shall be inserted as an item or items in the Ordinance of Estimates for any year and be subject to the same control by the City Council as it now has under this Article of the general items inserted in said ordinance. Provided, however, that when the salary of any municipal official or other person, whose salary is so named, shall be so increased or decreased it shall not again be so increased or decreased during the term of office of said municipal officer or other person. The increase in the salary of the Chairman of the Paving Commission, provided in the Ordinance of Estimates for 1914, is hereby ratified and given the same effect as if it had been made after the passage of this Act.

Does not apply to members of Police Force.

McEvoy v. Baltimore, 125 Md. —. Thrift v. Ammidon, 125 Md. —.

1912, ch. 429.

**36B.** The Board of Estimates shall have power to appoint, upon nomination of the Mayor, a consulting engineer, who shall be paid a salary to be fixed by said Board, not exceeding \$4,000 per year. The duty of the consulting engineer shall be to advise and assist in the work of the various engineering departments of the city when called upon so to do. He shall decide all questions, controversies and conflicts between the engineers of the various departments, all engineering questions which come before the Board of Estimates may be referred to him for consideration and advice, and he shall exercise such other duties as he may be called upon to exercise by the Mayor or the Board of Estimates. The consulting engineer shall not be regarded as a municipal official within the meaning of section 26.

1914, ch. 539.

**36B.** All purchases of property, and other contracts in-

volving an expenditure of more than five hundred dollars, except those awarded by the Board of Awards under section 15 of the Charter, made by any department, sub-department, municipal officer, special commission or board, in addition to compliance with the other provisions of the Charter, shall be submitted to the Board of Estimates for its approval and shall be binding upon the city only when so approved.

The Board of Police Commissioners are not subject to the provisions of Section 14 and Section 36B of the City Charter.

Thrift v. Ammidon, 125 Md. —. McEvoy v. Baltimore, 125 Md. —.

## GRANTS OF FRANCHISES.

P. L. L., (1898) Art. 4, sec. 37. 1900, ch. 109. 1906, ch. 357.

37. Before any grant shall be made by the Mayor and City Council of Baltimore, of the franchise or right to use any street, avenue, alley or highway, or the grant of the franchise or right for the use of any public property mentioned in Section 7 of this Article, the proposed specific grant, with the exceptions hereafter in this Section made, shall be embodied in the form of an ordinance, with all the terms and conditions required by the provisions of this Article, and such others as may be right and proper, including a provision as to the rates, fares and charges, if the grant provides for the charging of rates, fares and charges, and a provision that the franchise or right shall be executed and enjoyed six months after the grant. The said ordinance shall, after having been introduced in either Branch of the City Council, and after the first reading, be referred forthwith by the Branch in which the same is offered to the Board of Estimates. The said Board shall make diligent inquiry as to the money value of said franchise or right proposed to be granted, and the adequacy of the proposed compensation to be paid therefor to the city as offered in the ordinance already introduced, and the propriety of the terms and conditions of said ordinance, and said Board is empowered to increase the compensation to be paid therefor to the city, and alter the terms and conditions of said ordinance, provided such alterations are not inconsistent with the requirements and provisions of this Article, and it shall be the duty of said Board to fix in said ordinance the said compensation at the largest amount it may be able by advertisement or otherwise to obtain for said franchise or right, and no grant thereof by the City Council shall be made except for the compensation and on the terms approved by a vote or resolution of the said Board, entered on the minutes or records of such Board and attached to said ordi-



nance, with the signatures of a majority of said Board signed to the same. The provisions of this section shall apply to the renewal or extension of any franchise or right relating to the use of any of the public property mentioned in section 7 of this Article now existing, or which may hereafter be granted to any person or body corporate. Provided, that the right to use the streets, avenues, alleys or public property, by any person or body corporate for steps, porticoes, bay windows, bow windows, show windows, signs, columns, piers or other projections or structural ornaments of any character except so far as the same may be prohibited by law, and covered vaults, covered areaways, drains, drain-pipes, or any other private purpose not prohibited by laws and not being a franchise or right requiring a formal grant by ordinance under the terms of this section, may be granted by the Board of Estimates for such an amount of money and upon such terms as the said Board may consider right and proper. Before said Board shall grant any such right the person or body corporate seeking the same shall file before said Board in writing an application for such use and in said application the use desired shall be stated and what the applicant is willing to pay for the same must be given and such person or body corporate shall only enjoy such use on the payment of the amount of money named by said Board and on the terms and conditions said Board shall prescribe in writing, and no ordinance or advertisement shall be necessary or made in such cases as are named in the proviso of this section. *Provided*, however, that copies of said application be served upon the adjoining property owners by said applicant before filing application before said Board.

Baltimore City v. Gorter, 93 Md. 12. Purnell v. McLane, 98 Md. 591-595. Brauer v. Refrigerating Co., 99 Md. 367.

*See*, section 8, as re-enacted by Act 1906, ch. 152, ante, P. 54.

In connection with the provisions of Section 37, of the Charter, *see*, Simon's Sons v. Maryland Tel. & Telegraph Co., 99 Md. 173. Md. Tel. Co. v. Simon's Sons, 103 Md. 136. Preston v. Likes, Berwanger & Co., 103 Md. 191.

Franchises in city streets may be granted by the Legislature.

Dulaney v. United Railways Company, 104 Md. 440-441.

Street lighting—liability of contractor, supplying city—Injury by escape of gas.

Consolidated Gas Co. v. Connor, 114 Md. 140.

Grant of minor privilege without notice to adjoining property void.

Fralinger v. Cooke, 108 Md. 683.

Referred to in The Patapsco Electric Co. v. M. & C. C., 110 Md. 310.

A municipality may be estopped by the acts of its officers, &c., from asserting the invalidity of a grant of franchise.

Hagerstown v. Hagerstown Rwy., 123 Md. 183.

A municipal corporation may set up a plea of *ultra vires* to enter into a given contract, or do a given act, even though the other party to the contract has expended money on the faith of said contract.

Hagerstown v. Hagerstown Rwy., 123 Md. 183.

1908, ch. 151.

**37A.** Anything in the preceding sections of this Article, to the contrary notwithstanding, where ordinances now stand referred, or shall hereafter stand referred, to the Board of Estimates of the Mayor and City Council of Baltimore, in the manner provided for in the preceding section of this Article, granting franchises or rights in the water front, wharf property, land under the water, public landings, wharves or docks, of the Mayor and City Council of Baltimore, or in any portion or portions thereof, the said Board shall be empowered to fix the compensation for the franchise or right in their discretion at such sum as they shall deem reasonable and adequate, and in addition to the power of fixing said compensation as aforesaid, and of prescribing the terms and conditions of the grant in the manner provided for in the preceding section of this article, shall be empowered, where there are two or more applicants for the franchise or right who are prepared to pay said compensation, fixed as aforesaid, to grant said franchise or right to either one of said applicants, to the exclusion of the other, or of the rest of said applicants, as it may deem best for the interests of the City of Baltimore; and it is also the purpose of this Act that where there are one or more of such applications for the franchise or right in space, included in, but less in dimensions than the space embraced in another or other of such applications, the said board shall, in addition to the power of fixing said compensation as aforesaid, and of prescribing the terms and conditions of the grant as aforesaid, be also empowered to determine, in its discretion, whether the grant shall be made to the applicant, or to one of the applicants, applying at said compensation fixed as aforesaid for the franchise or right in the greater space, or to the applicant or one of the applicants, applying at said compensation, fixed as aforesaid, for the franchise or right in the lesser space accordingly, as the said Board may deem best for the interests of the people of Baltimore. No grant of the franchise or right in any of the public property mentioned in this section of this Article, or in any portion or portions thereof, shall be made by the City Council, except for the compensation, and upon the terms and conditions, and to the grantee or grantees approved by a vote or resolution of the said Board, entered on the

minutes or records of the said Board, and attached to the ordinance granting the franchise or right to the grantee or grantees, approved by the said Board, with the signatures of a majority of the said Board signed to the same.

38. There shall be included annually in the ordinance of estimates the sum of fifty thousand dollars to be used as a contingent fund by the Board of Estimates, in case of an emergency or necessity for the expenditure of money above the appropriations regularly passed for any department, sub-department, municipal officer not embraced in a department, or special commission or board, in the interval between the annual appropriations as herein provided for. As soon as practicable after the expenditure of any part of said contingent fund, the said Board shall report to the City Council all the circumstances attending said expenditure, and the necessity for the same, and the reasons assigned by the department, sub-department, municipal officer not embraced in a department, or special commission or board, applying for and receiving the same. The City Council shall not have the power to increase or decrease, or strike out, said amount from the said ordinance of estimates.

Baltimore City v. Gorter, 93 Md. 12.

39. The Mayor and City Council of Baltimore shall appropriate no money out of the Treasury of the City for the payment of any private claim against the city, unless such claim shall have first been presented to the Board of Estimates, together with the proofs upon which the same is founded, and reported favorably by said Board.

Baltimore City v. Gorter, 93 Md. 12.

## TAX RATE AND ANNUAL LEVY.

1914, ch. 532.

40. The Board of Estimates shall, on the first day of October, or as soon thereafter as practicable, in the year eighteen hundred and ninety-eight, and in each succeeding year, procure from the proper municipal department and shall send, with the said ordinance of estimates, to both Branches of the City Council, a report showing the taxable basis for the next ensuing fiscal year, and the amount which can reasonably be expected to be realized by taxation for said year. The report shall contain an aggregate statement of all the moneys to be expended during the next ensuing fiscal year by the city, as

set forth in said ordinance of estimates, as well as of any other sums, if such there be, which the city may be required to expend during the said year for any purpose or purposes not included in the ordinance of estimates, and it shall also state the total income which can reasonably be expected to be received by the city for the next ensuing fiscal year from licenses, fees, rents and all other charges, including the amount believed to be collectible from taxes in arrears. The report shall show the difference between such anticipated expenditures and receipts of the city, and shall state a rate for the levy of taxes sufficient to realize the amount required to meet the said difference. In the ordinance making the annual levy of taxes, which ordinance shall be passed by the Mayor and City Council of Baltimore in the month of November in each year, and as soon as practicable after the passage of the ordinance of estimates, the Mayor and City Council of Baltimore shall fix a rate of taxation not less than the rate stated in the aforesaid report, so that it shall not be necessary at any time for the city, its officers or agents, to create a floating debt to meet any deficiency, and it shall not be lawful for the city, its officers or agents, to create a floating debt for any such purpose. The taxes levied under said ordinance in the month of November in each year shall be the taxes to be collected for the fiscal year next ensuing after the said month of November, and shall be due and may be paid to the City Collector on or after the first day of January next ensuing. The taxes included in said levy on real estate or chattels real, and on all forms of personal property, including shares of stock and other property, valued or subject to valuation by the State Tax Commissioner, shall be in arrears on the first day of July next ensuing the date of their levy, and the taxes on all forms of property after they become in arrears as aforesaid shall bear interest at the rate of six per centum per annum.

Baltimore City v. Gorter, 93 Md. 1. Skinner, etc. Dry Dock Co. v. Baltimore City, 96 Md. 37. Baltimore City v. Poole, 97 Md. 71. Baltimore City v. Chester River S. S. Co., 103 Md. 400.

Taxes on stock liens from the time of their levy.

Union Trust Company v. Belvedere, 105 Md. 508.

## COMMISSIONERS OF FINANCE.

1908, ch. 515.

41. The Commissioners of Finance shall be the head of the fourth sub-department of finance, and shall be a board composed of the Mayor, Comptroller, Register and two persons appointed

by the Mayor in the mode prescribed in section 25 of this Article, and who shall hold their offices as therein provided. Both of said two last named persons shall serve without pay. The Mayor and Register shall sign all obligations of the city and all city stock. One of the persons appointed by the Mayor as aforesaid and so designated, shall be president of said Board. The Deputy Register shall act as clerk to said Board and keep the accounts and a record of proceedings of said Board, and for such service, in addition to the salary of said Deputy Register, herein provided, he shall be paid a salary of five hundred dollars per annum, payable monthly. This Board, from the institutions chartered by the United States or the State of Maryland, having authority under their charters to receive and hold money on deposit, shall select, from time to time, such depository or depositories for the funds of the city as to it may seem proper. It shall authorize all temporary loans to be made not inconsistent with this Article. It shall have charge, control and custody of all sinking funds of the Mayor and City Council of Baltimore, and shall perform such other duties as shall be prescribed by ordinances not inconsistent with this Article.

#### CITY COLLECTOR.

42. The City Collector shall be the head of the fifth sub-department of Finance, and shall be appointed by the Mayor in the mode prescribed in section 25 of this Article, and hold his office as therein provided. He shall be paid for his services in collecting city taxes the salary of two thousand dollars per annum, payable monthly. He shall be the collector of all taxes and assessments on real property levied or made by the city. He shall in October in the year eighteen hundred and ninety-eight and in each year thereafter, immediately upon the receipt of the statement from the Appeal Tax Court, showing the taxable basis for the next ensuing fiscal year, as provided for in section 171 of this Article, begin the preparation of the tax bills on said basis, and after the levy of taxes has been made he shall complete said bills and have them ready for payment by the taxpayers on the first day of January next ensuing said levy, or as soon thereafter as practicable. He shall have such assistants, clerks and bailiffs as may be fixed by ordinances, and who shall perform such duties as shall be prescribed by ordinances not inconsistent with this Article.

For decisions of interest in properly construing the provisions of section 42, *see*

*Sterling v. McMaster*, 82 Md. 164. *Textor v. Shipley*, 86 Md. 424. *Skinner, etc., Dry Dock Co. v. Baltimore City*, 96 Md. 38.

1844, ch. 236, sec. 4. P. G. L., (1860) Art. 81, sec. 49. 1872, ch. 384. 1874, ch. 383, sec. 48. P. G. L., (1888) Art. 81, sec. 49. 1888, ch. 515. 1900, ch. 229. 1914, ch. 532.

43. 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 City Collector shall first give notice by advertisement published once a week for four successive weeks in two of the daily newspapers published in said city, one of which shall be in the German language, and in every issue of the Municipal Journal during said four weeks, that he will sell said property at public auction on the day in said advertisement mentioned. Said notice shall state the name of the person, when known, to whom such a parcel of ground is assessed, the amount of taxes due on the same, and what improvements, if any, are on said parcel of ground, and to properly describe said property the City Collector shall procure a description from the Land Records and no survey shall be made unless a proper description cannot be obtained from the Land Records, and no charge for survey shall be made unless a survey is actually made. If a proper description cannot be obtained from the Land Records, the City Surveyor shall, upon direction of the City Collector, make a proper survey and furnish a description and plat to the City Collector, and the sum of three dollars for the cost of such survey shall be added to the tax bill and collected in the same manner as the bill itself, and paid over to the City Register for the use of the city. The City Collector shall, before advertising said property for sale, give to the person or persons so in arrears, or to one of them, if more than one, or leave at his or her or their residence, or last known residence of one of them, and if no such residence be known, there shall be left upon the premises so to be sold for taxes, a statement of his or her or their indebtedness, and not less than thirty days' notice of his (said Collector's) intention, if the bill is not paid, to enforce the payment thereof by distraint or execution. Provided, however, that this paragraph shall not apply to or affect the present City Surveyor.

Mayor, &c. v. Howard, 6 H. & J. 383. Alexander v. Walter, 8 Gill, 239. Polk v. Rose, 25 Md. 153. Co. Commr's. of Pr. Geo. Co. v. Clarke, 36 Md. 207. Tax Sale of Lot 172, 42 Md. 196. County Commr's. v. Union Mining Co., 61 Md. 548. Cooper v. Holmes, 71 Md. 20. County Commr's. of Balto. Co. v. Winand, 77 Md. 522. Duvall v. Perkins, 77 Md. 582. Textor v. Shipley, 86 Md. 424. Benzinger v. Gies, 87 Md. 704.

As to collection of taxes and tax sales generally, *see*, Mayor v. Chase, 2 G. & J. 376. Polk v. Pendleton, 31 Md. 125. Dyer v. Boswell, 39 Md.

465. Guisebert v. Etchison, 51 Md. 478. Steuart v. Meyer, 54 Md. 466. Margaff v. Cunningham, 57 Md. 585. Gould v. Mayor, 58 Md. 46. Hebb v. Moore, 66 Md. 167. Perkins v. Dyer, 71 Md. 421. Georgetown College v. Perkins, 74 Md. 72. Degner v. M. & C. C. of Balto., 74 Md. 144. Bader v. Perkins, 77 Md. 468. Baltimore v. Ulman, 79 Md. 486. Shaw v. Devecmon, 81 Md. 217. Richardson v. Simpson, 82 Md. 157. Baumgardner v. Fowler, 82 Md. 637. Young v. Ward, 88 Md. 413.

Land cannot be sold for taxes, unless taxes due and in arrear.

Mullan v. Brydon, 117 Md. 559.

P. L. L., (1860) Art. 4, sec. 875. P. L. L., (1888) Art. 4, sec. 833.

44. The City 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.

P. L. L., (1860) Art. 4, sec. 876. P. L. L., (1888) Art. 4, sec. 834.

45. If the property so sold shall not be redeemed at the expiration of a year and a day from the day of sale, the City 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.

Polk v. Rose, 25 Md. 153. Hamilton v. Valiant, 30 Md. 139. Tax Sale of Lot 172, 42 Md. 196. Taylor v. Forrest, 96 Md. 529.

1904, ch. 281.

45a. Whenever property in the City of Baltimore has been sold for taxes pursuant to law, by one City Collector, and such sale has been reported and the deed executed by the successor in office of the City Collector who made the sale as aforesaid, such report and such conveyance shall be as valid to all intents and purposes as they would have been if made by the City Collector who made the sale.

1904, ch. 281.

45b. Whenever property in the City of Baltimore has been sold for taxes, pursuant to law, by one City Collector, and such sale has been reported by the City Collector who made the same, but the deed for such property has been executed and delivered by the successor in office of the City Collector who made such sale and report as aforesaid, such conveyance shall be as valid to all intents and purposes as it would have been if made by the City Collector who made and reported the sale.

See, Duvall v. Perkins, 77 Md. 588. Taylor v. Forrest, 96 Md. 533. McMahon v. Crean, 109 Md. 652.

P. L. L., (1860) Art. 4, sec. 877. P. L. L., (1888) Art. 4, sec. 835.

46. 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 City Collector, cannot, after reasonable effort, be found, or if said owner shall refuse to receive said balance of money, then in either case the City Register shall invest the same for the benefit of such owner in any public debt of the State of Maryland or Mayor and City Council of Baltimore, and shall safely keep the same, and from time to time collect the interest due thereon, and invest for the benefit of such owner the interest from time to time in the said stock.

P. L. L., (1860) Art. 4, sec. 878. P. L. L., (1888) Art. 4, sec. 836.

47. When any lot or parcel of ground in the said City shall be sold by reason of 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 City Collector the whole amount of money received by such City Collector from the sale of the lot or parcel of ground to be redeemed, 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 City Collector delivered or tendered to the purchaser, whose right in the property so purchased shall thenceforth cease and determine.

1900, ch. 663.

47a. In all cases where lands held by lease have been sold for the non-payment of taxes or assessments due thereon, the owner of the reversionary interest therein shall have the right at any time within one year and a day from the day of such sale, on paying or tendering in payment to the collector the whole amount of the money received by such collector from the sale of the lot or parcel of ground, together with the further sum of one-half per cent. per month interest from the time of sale to the time of such tender, to be substituted in the place of said purchaser of said lot or parcel of ground so sold, and the sum so paid shall be by the collector delivered or tendered to the purchaser whose rights in the property shall thenceforth cease and determine.

This section was intended to supplement section 836 of P. L. L., (1888) Art. 4, now codified as section 47 of the New Charter.



P. G. L., (1860) Art. 81, secs. 61, 63. 1867, ch. 186. 1870, ch. 312.  
 1872, ch. 384. 1874, ch. 483, sec. 51. P. G. L., (1888) Art. 81, sec. 52.  
 P. L. L., (1888) Art. 4, sec. 837. 1888, ch. 515. 1902, ch. 490.

48. In all cases where lands held in fee simple or by lease have been sold, or shall be sold for payment of taxes in arrears, according to the provisions of existing laws, it shall be the duty of the City Collector to report the said sale, together with all the proceedings had in relation thereto to the Circuit Court of said city. The Court to which such report shall be made shall examine the said proceedings, and if the same appear to be regular, and the provisions of law in relation thereto have been complied with, shall order notice to be given by advertisement published in such newspapers as the Court shall direct, warning all persons interested in the property sold to be and appear by a certain day in the said notice to be named, to show cause, if any they have, why said sale should not be ratified and confirmed; and if no cause or an insufficient cause be shown against the said ratification, the said sale shall, by order of said court, be ratified and confirmed, and the purchaser shall, on payment of the purchase money, have a good title to the property sold; but if good cause, in the judgment of said court, be shown in the premises, the said sale shall be set aside; in which case the said City Collector shall proceed to a new sale of the property and bring the proceeds into court, out of which the purchaser shall be repaid the purchase money paid by him to the City Collector on said rejected sale, and all taxes assessed on said real estate and paid by said purchaser since said sale, and all costs and expenses properly incurred in said court, with interest on all such sums from the time of payment; and if the purchaser has not paid the purchase money or the subsequent taxes, to apply said proceeds to the payment of the taxes for which said real property may have been sold, and all subsequent taxes thereon then in arrears, with interest on the same, according to law, and the costs of the proceedings; but such sales shall not be set aside if the provisions of the law shall appear to have been substantially complied with; and the burden of proof shall be on the exceptant to show the same to be invalid under the law.

Co. Commr's. Pr. Geo. Co. v. Clark, 36 Md. 206. *Ex parte* in the matter of the Tax Sale of Lot 172, 42 Md. 196. Meyer v. Steuart, 48 Md. 423. Gnisebert v. Elchison, 51 Md. 488. Steuart v. Meyer, 54 Md. 454. Cooper v. Holmes, 71 Md. 20. Textor v. Shipley, 77 Md. 476. Shaw v. Devecmon, 81 Md. 217. Richardson v. Simpson, 82 Md. 155. Baumgardner v. Fowler, 82 Md. 631. Keys v. Forrest, 90 Md. 136. Taylor v. Forrest, 96 Md. 531. *Cf.* Murgaff v. Cunningham's Heirs, 57 Md. 585. Young v. Ward, 88 Md. 419, 420. Oppenheimer v. Levi, 96 Md. 304. Hewitt v. Parsley, 101 Md. 207.

1880, ch. 230. P. L. L., (1888) Art. 4, sec. 838.

49. Whenever the City Collector shall have distrained or levied upon any goods or chattels in said city for non-payment of any taxes, State or municipal, due by the owner thereof, before making sale of property so distrained or levied upon, said City Collector shall give notice by advertisement published twice a week for one week prior to the day of sale, and also on the day of sale, in three of the daily newspapers published in said city, one of which shall be in the German language, that he will sell for cash, at public auction, to the highest bidder, on the day and at the time and place mentioned in said advertisement, the property therein specified, unless on or before the day of sale the entire amount of taxes for which such distraint or levy shall have been made, with the interest thereon, and costs of making said levy and advertisement, shall be paid.

1880, ch. 230. P. L. L., (1888) Art. 4, sec. 839.

50. Every City Collector who shall sell any goods or chattels levied or distrained upon for taxes, State or municipal, in Baltimore City, after due advertisement, as required in the preceding section, shall retain out of the proceeds of sale the amount of taxes due from the delinquent, for which such levy or distraint shall have been made, with the interest thereon, and all costs incurred in making said sale, and shall pay over the surplus, if any, to the owner of the property so levied upon and sold.

1890, ch. 205. P. L. L., (1888) Art. 4, sec. 841A. 1900, ch. 229.  
1914, ch. 532.

51. The City Collector shall at least two weeks before the taxes become in arrear give notice, by advertisement in two daily papers published in Baltimore City and in the Municipal Journal, of the day on which all taxes for the current fiscal year become in arrear; and shall, on the application, in person or by agent or by mail, of any person to whom property is assessed, deliver or send by mail a bill showing the amount of taxes due by such person. Two weeks before the day on which such taxes shall by law be in arrear, he shall give notice by advertisement in the same way that all taxes not paid on or before that date will be in arrears, and that the property on which said taxes are levied will then be subject to be sold for taxes. And said notice shall further state that unless the taxes are paid before they become so in arrear, an amount equal to one per centum per annum of the gross amount thereof, ac-

counting from the date when said taxes become in arrear shall be added to each bill for taxes in arrear; and if the same be not paid before they so become in arrear an amount equal to one per centum per annum of the gross amount of each bill, accounting from the time said taxes became in arrear to the time of the payment thereof, shall be added thereto as a penalty, and collected in the same manner as the bill itself, said penalty to be paid to the City Collector and by him to the City Register to the credit of the Mayor and City Council. In the case of escaped or omitted property the penalty herein provided, and also interest, shall be added to the tax bills for the current and back years in the same manner as if such property had not escaped or been omitted.

*Benzinger v. Gies*, 87 Md. 704.

1904, ch. 386.

**51A.** In all cases where the City Collector shall commence and carry on proceedings for the enforcement and collection of taxes under the provisions of this Article, whether by notice, distraint, levy, advertisement, sale, report of sale or otherwise, and the term of office of such City Collector shall expire or shall cease by death, resignation, removal or otherwise, before such proceedings are completed, and, in case of sale, before the said sale has been fully ratified and confirmed and a deed to the purchaser executed and delivered as provided in this Article, the successor in office of such City Collector whose term of office shall thus cease or expire is hereby authorized, empowered and required to continue and complete all said proceedings commenced and carried on as aforesaid, during the term of office of his said predecessor, in the same manner and with like effect as his said predecessor would have been authorized and empowered to do had his term of office not ceased and expired as aforesaid; and the successor in office of such City Collector whose term of office shall thus cease or expire, shall have full power and authority to report any and all sales made by his said predecessor in office, to execute and deliver any and all deeds to property sold or reported by his said predecessor, and generally to do any and all acts and things necessary or proper to be done in order to continue and finally complete the enforcement and collection of taxes, and the sale and conveyance of property therefor commenced and carried on by his said predecessor in office.

*Duvall v. Perkins*, 77 Md. 588. *Taylor v. Forrest*, 96 Md. 529.

Interest and penalties may be collected from property in the hands of

a Receiver, but the right to them may be lost by delay in applying to the Court.

*Blakistone v. State*, 117 Md. 238.

Taxes paid under a mistake of law cannot be recovered. City Collector cannot refund taxes paid under a law, after it was declared invalid.

*Baltimore v. Harvey*, 118 Md. 276. *Amos v. Abronaitis*, 122 Md. 257.

This act invalidates tax sale deed given before act was passed.

*McMahon v. Crean*, 109 Md. 669.

## COLLECTOR OF STATE TAXES.

1874, ch. 483. P. L. L. (1888) Art. 4, sec. 851. P. G. L. (1904) Art. 81, sec. 31.

52. The Mayor shall appoint in the mode prescribed in section 25 of this Article, and he shall hold his office as therein provided, one Collector for Baltimore City, for the collection of all State taxes levied or to be levied for any year; and it shall not be lawful for the municipal authorities of said city to provide any fixed annual or other stated compensation for 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 prescribed by this Article.

*Crane v. State*, 1 Md. 27. *Humphrey v. State*, 17 Md. 57. *McCauley v. State*, 21 Md. 573. *Allen v. State*, 98 Md. 697. *Cf.*, *Seidenstricker v. State*, 2 Gill 374.

1888, Art. 81, sec. 33. 1860, Art. 81, sec. 35. 1865, ch. 155. 1868, ch. 366. 1874, ch. 483, sec. 32. P. L. L., (1888) Art. 4, sec. 852.

53. The Collector of State taxes in the City of Baltimore, before he acts as such, shall give a bond to the State of Maryland in the penalty of seventy-five thousand dollars, to be approved by the Governor, with the condition that "if the above bound. . . . shall well and faithfully execute his office, and shall account to the State Comptroller for, and pay to the Treasurer of the State, the several sums of money which he shall receive for the State, or be answerable for by law, at such times as the law shall direct, then such obligation to be void, otherwise to remain in full force and virtue in law." The said Collector's bond, when approved by the proper authorities in the City of Baltimore, shall be recorded in the office of the Clerk of the Superior Court of Baltimore City, and when approved by the Governor shall be filed in the office of the State Comptroller.

*Baden v. State*, 1 Gill 165. *State v. Carleton*, 1 Gill 249. *Waters v.*

State, 1 Gill 302. *Lawrenson v. State*, 7 H. & J. 339. *Milburn v. State*, 1 Md. 14. *Billingslea v. State*, 14 Md. 369. *McCauley v. State*, 21 Md. 573. *State v. Horner*, 34 Md. 569. *Frownfelter v. State*, 66 Md. 80.

1888, Art. 81, sec. 34. 1868, ch. 366. 1874, ch. 383, sec. 33. 1904, Art. 81, sec. 34. P. L. L., (1888) Art. 4, sec. 853.

54. The Collector of State Taxes in the City of Baltimore shall make daily deposits of such sums of money as he shall receive for State taxes collected by him, less the amount of commission allowed him for the collection of the same, to the credit of the Treasurer of the State of Maryland, in some bank in said city which pays to the State the bonus or school tax, as provided by law, to be designated by the said Treasurer, and shall send to the Treasurer a statement of the amount so deposited within the first ten days of each month, with a certificate of the bank that the same is so deposited; and on the failure to make such daily deposits and to send such certificate, he shall, on proof thereof to the satisfaction of the Governor, be liable to removal from office by the Governor, and the State Comptroller shall immediately enter suit upon his bond.

*Allen v. State*, 98 Md. 697. See *Seidenstricker v. State*, 2 Gill 374.

1874, ch. 483. P. L. L., (1888) Art. 4, sec. 854. 1888, Art. 81, sec. 35. 1868, ch. 366. 1874, ch. 483, sec. 34.

55. The Treasurer of the State may make weekly examination of the books of the Collector of State Taxes in Baltimore City, whose books shall always be open to such inspection.

1874, ch. 483. P. L. L., (1888) Art. 4, sec. 855. 1888, Art. 81, sec. 39. 1860, Art. 81, sec. 39. 1844, ch. 236, sec. 1. 1865, ch. 155. 1868, ch. 366. 1874, ch. 483, sec. 38.

56. If there be no Collector of State Taxes qualified and compensated in conformity with the provisions of this Article in said city by the fifteenth day of October 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 Public General Laws, Article 81, title "Revenue and Taxes," and the said Collector shall have all the power of other Collectors.

1874, ch. 483. P. L. L., (1888) Art. 4, Sec. 856.

57. The Mayor and City Council of Baltimore shall levy upon the assessable property in the City of Baltimore such commission as will in its judgment insure a speedy collection

of said State taxes, not exceeding two per centum on the amount to be placed in the hands of said Collector of State Taxes for Baltimore City; said commission to be levied for the use of said Collector, and to be collected as other charges are collected.

Allen v. State, 98 Md. 697.

58. The City Collector shall be the Collector of State Taxes, and perform the duties as herein provided, unless otherwise provided by ordinance of the Mayor and City Council of Baltimore.

1906, ch. 101.

58A. At the trial or hearing of any suit or proceedings of any kind, whether at law or in equity, or before any Justice of the Peace, brought for the recovery of any tax, or taxes, and for any interest or penalties that may be due and owing on account of the non-payment of such tax or taxes, against any corporation, firm or individual, and in the case of an individual whether such suit or proceedings be against him or her in a representative or fiduciary capacity, or in his or her own right, the certificate of the City Collector or of the Collector of State Taxes in the City of Baltimore, as the case may be, as to the amount of such tax or taxes due, and as to the amount of any interest or penalties or both, due for non-payment of the same shall be *prima facie* evidence to entitle either the Mayor and City Council of Baltimore or the State of Maryland as the case may be, to a verdict and judgment, or to an order or decree as the proceedings may warrant, against such corporation, firm or individual, and in the case of an individual, whether the individual be sued or proceeded against in a representative or fiduciary capacity or in his or her own right for the full amount of such tax or taxes, together with any interest or penalties, or both, which said certificate shall so state to be due and owing.

1912, ch. 429.

58B. It shall not be necessary to bring separate suits or file separate claims for State and city taxes, but State and city taxes may be claimed, sued for, and recovered in one claim, suit or other proceeding in the name of the Mayor and City Council of Baltimore.

#### COLLECTOR OF WATER RENTS AND LICENSES.

1898, ch. 123. 1900, ch. 109.

59. The Collector of Water Rents and Licenses shall be

the head of the sixth sub-department of Finance, and shall be appointed by the Mayor in the mode prescribed in section 25 of this Article, and hold his office as therein provided. He shall be paid the salary of two thousand five hundred dollars (\$2,500) per annum, payable monthly. He shall collect all water rents and license fees, and all other dues, or revenues to which the Mayor and City Council of Baltimore is or may be entitled except otherwise provided in this article, and he shall have such assistants and clerks and perform such other duties as shall be prescribed by ordinances not inconsistent with this Article. All licenses imposed by ordinances shall be due and collectible in the first week of January in each year, and it shall be the duty of said Collector of Water Rents and Licenses to see that said Licenses are paid at that time; provided, that the Mayor and City Council of Baltimore may, if the public service permits, assign the duties to be performed by this section to be performed by the Collector of Water Rents and Licenses, to some other municipal official, and when so done by ordinance this office may be abolished.

Does not apply to market licenses.

*Meushaw v. State*, 109 Md. 84. *City v. Wollman*, 123 Md. 310.

#### DEPARTMENT OF LAW.

60. There shall be a Department of Law of the Mayor and City Council of Baltimore; the head of said department shall be the City Solicitor.

1906, ch. 459.

61. The City Solicitor shall be appointed by the Mayor in the mode prescribed in section 25 of this Article, and hold his office as therein provided. He shall be a member of the Baltimore Bar, who has practiced his profession for not less than ten years in Baltimore City, and he shall receive a salary of forty-five hundred dollars per annum, payable monthly.

1898, ch. 123. 1904, ch. 112. 1906, ch. 206.

62. The City Solicitor shall be the legal adviser of the Mayor and City Council of Baltimore, and its several departments, and special commissions or boards, and shall have general supervision and direction of all legal business of the city. He shall have charge and direction of the preparation and trial of all suits, actions and proceedings of every kind to which the city, or any municipal official, department, special commission or board, shall be a party in any Court, local, State or Federal,

or before any Justice of the Peace, and when practicable, without conflict with his other duties, he shall personally participate in the trial of all such suits in any of the Federal Courts and in the Court of Appeals of Maryland and of all such suits in other Courts which the Mayor may request him in writing to try, and shall discharge such other duties as may from time to time be prescribed by ordinances not inconsistent with this Article. He shall appoint in writing four assistants, to be known respectively, as the Deputy City Solicitor and Assistant City Solicitor, all of whom shall be members of the Baltimore Bar, and shall hold their respective positions at salaries payable monthly of \$3,000 per annum for the Deputy City Solicitor and \$2,500 per annum for each of the said Assistant City Solicitors, during the pleasure of the City Solicitor, who is hereby authorized to assign to them the performance, subject to his direction and control, of any of the duties required of him by this Article, whether expressed to be personal to himself or not, excepting only such duties as pertain to his character as a member of the Board of Estimates or the Board of Awards. In case any vacancy shall occur in the office of the City Solicitor whether by death, resignation or otherwise, the Deputy City Solicitor shall perform all the duties appertaining to said office until the appointment and qualification of the new City Solicitor, and during the absence, sickness or other disability of the City Solicitor, the Deputy City Solicitor shall perform all the duties appertaining to the office of City Solicitor, including his duties as a member of the Board of Estimates and of the Board of Awards. In addition to such other duties as the City Solicitor may assign to him, one of the Assistant City Solicitors shall have charge, subject to the direction and control of the City Solicitor, of the examination of all titles on behalf of the city, and in doing such work shall be aided by such persons as the City Solicitor shall employ for the purpose out of the funds appropriated by the annual ordinance of estimates to his department for general expenses, or out of the proceeds of loans or other sums appropriated by the Mayor and City Council of Baltimore to defray the cost of public improvements or work involving the examination of titles on behalf of the city.

In relation to the powers and duties of the City Solicitor and his authority in representing the city in suits prior to the enactment of the new City Charter, *see*,

Balto. v. Ritchie, 51 Md. 233. Ireton v. Baltimore, 61 Md. 432. Dugan v. Mayor, 70 Md. 7, 8. M. & C. C. of Balto. v. Turnpike Co., 80 Md. 546.

City Solicitor not a ministerial officer,

Gross v. M. & C. C., 111 Md. 543.



63. The City Solicitor shall give advice and opinions in writing upon any legal questions affecting the interest of the city, which may be submitted to him in writing by the Mayor or either Branch of the City Council, or any Committee thereof, or the head of any department, or a special commission or board. All deeds, bonds, contracts and other legal instruments involving the interest of the city or to be executed by or passed to the Mayor or other officer of the city shall, before they are executed or accepted, be submitted to the City Solicitor and have endorsed upon them his opinion as to their sufficiency and their compliance in terms and conditions with the laws or ordinances under which they are executed. It shall be the duty of all officers and departments of the city to submit all such bonds, contracts or other written instruments to the City Solicitor for his approval before executing or accepting the same.

64. The Law Department shall have its offices and headquarters in such rooms in the City Hall, or elsewhere, as the Mayor may designate, to be provided and furnished at the expense of the city, and which shall be open on all business days between the hours of 9 A. M. and 3 P. M. All papers and documents relating to the legal business of the city shall be permanently filed in said office.

1898, ch. 123. 1904, ch. 112. 1906, ch. 206.

65. The City Solicitor is authorized to employ, in addition to the assistants to one of the Assistant City Solicitors mentioned in section 62 of this Article, at a total cost not exceeding the aggregate amount therefor fixed by the annual ordinance of estimates, a clerk, stenographer and typewriter, and such other assistants of every kind as he may require, who shall at all times be subject to his orders. The said clerk shall, subject to the direction of the City Solicitor, have charge and custody of the office and papers of the Law Department, which shall be arranged and indexed by him in such convenient and orderly manner as to be at all times readily accessible. He shall also keep in said office a complete docket and duplicate pleadings of all suits, actions, or proceedings in which the city, or any department or official thereof, is interested, pending in any Court or tribunal, upon which docket such appropriate entries shall be made as to show at all times the condition of each one of such cases. He shall also keep and record in a book to be provided for that purpose the original or duplicate copies of all written opinions furnished by the Law Department to the city,

or to any department or official thereof, and also of all abstracts of title furnished to the city by the Law Department. He shall also procure as far as possible all legal opinions and abstracts of title which have heretofore been furnished to the city, or any department or official thereof, and shall file and arrange such opinions and abstracts in such manner and order as to be at all times readily accessible, and shall make and preserve an index thereof. He shall also procure all law books heretofore purchased by the city and in possession of any law officer or ex-law officer of the city, and arrange them in a proper bookcase.

66. The City Solicitor shall have authority, with the written approval of the Mayor, to institute on behalf of the Mayor and City Council of Baltimore, any suit, action or proceeding in any court or tribunal, local, State or Federal. All appeals on behalf of the city to the Court of Appeals, the Supreme Court of the United States, the United States Circuit Court of Appeals or to any other Court shall be taken upon the written order of the City Solicitor, approved by the Mayor.

M. & C. C. of Baltimore v. Turnpike Co., 80 Md. 536.

67. The City Solicitor and his Assistants shall be allowed reasonable traveling expenses outside of the city, to be audited by the Comptroller, when on business connected with the Law Department.

#### DEPARTMENT OF PUBLIC SAFETY.

68. There shall be a Department of Public Safety of the Mayor and City Council of Baltimore, which shall consist of the Board of Fire Commissioners, Commissioner of Health, Inspector of Buildings and Commissioner of Street Cleaning, and *ex officio* the President of the Board of Police Commissioners. The head of said department shall consist of a Board of Public Safety, composed of the President of the Board of Fire Commissioners, who shall be President of said Board, Commissioner of Health, Inspector of Buildings, Commissioner of Street Cleaning, and the President of the Board of Police Commissioners. This Board shall be for consultation and advice, and it shall have no power to direct or control the duties or the work of any sub-department. It shall perform such other duties as may be required of it by ordinances not inconsistent with this Article.

## BOARD OF FIRE COMMISSIONERS.

69. The Board of Fire Commissioners shall be the head of the first sub-department of Public Safety, and shall consist of a Board of three persons appointed by the Mayor in the manner prescribed in section 25 of this Article, and hold their offices as therein provided, and they shall have control, regulation and supervision of the Fire Department and matters relating to the same, and shall perform such other duties as may be required by ordinances not inconsistent with this Article. One of said three persons shall be designated by the Mayor as the President of said Board. Each member of said Board shall be paid a salary of one thousand dollars per annum, payable monthly. They shall have power to appoint all subordinates in their sub-department, and fix their compensation, not, however, to exceed in number of employees or aggregate amount of compensation the limits fixed by ordinance.

1884, ch. 312. 1886, ch. 463. 1888, ch. 393. P. L. L., (1888) Art. 4, secs. 315 and 315A.

70. The Board of Fire Commissioners of the City of Baltimore may retire from office in the Fire Department any permanent or call member thereof who has become permanently disabled while in the actual performance of duty, or who has performed faithful service in the department for a period of not less than twenty consecutive years, or who may become unable to perform further service by reason of age or other physical or mental disabilities, and place the member so retired upon a pension roll. And said Board may also provide for the relief of the widows and children of firemen who may be killed in the discharge of duty. The amount of such annual pension to be allowed by said Board of Fire Commissioners to each pensioner shall be equal to one-half the yearly amount then being received by him, for service in said department at the time of such retirement, per annum, payable in monthly installments.

## COMMISSIONER OF HEALTH.

71. The Commissioner of Health shall be the head of the second sub-department of Public Safety. He shall be appointed by the Mayor, in the mode prescribed in section 25 of this Article, and hold his office as therein provided. It shall be his duty to cause all ordinances now in existence or which may hereafter be enacted for the preservation of the health of the City of Baltimore, not inconsistent with this Article, to be faithfully

executed and strictly observed; and all power and authority now lodged in the Board of Health in said city shall be and the same is hereby transferred to the Commissioner of Health. His salary shall be three thousand five hundred dollars per annum, payable monthly, and he shall be a physician of five years' experience and active practice at the time of his appointment. He shall perform such duties in this department as are now required or may hereafter be prescribed by ordinance not inconsistent with this Article. The Commissioner of Health may appoint two Assistant Commissioners of Health, a Medical Examiner and an Assistant Medical Examiner, and a reasonable number of clerks and subordinates, and fix their compensation, but no greater number of persons shall be appointed by or employed under said Commissioner of Health than the public interests demand and the appropriation by the Mayor and City Council of Baltimore shall justify.

For origin of provisions of charter under this title, *see* City Code (1893), Art. 23.

**72.** There may be appointed by the Commissioner of Health, a reasonable number of Sanitary Inspectors for said city, not exceeding fifteen, of whom two may be physicians, and one, at least, shall be a person skilled in the matters of drainage and ventilation; and the Commissioner of Health from time to time may prescribe the duties of each, consistent with the ordinances now existing or hereafter enacted, and not inconsistent with this Article.

1894, ch. 53.

**73.** The Commissioner of Health shall appoint all inspectors and analysts of bakeries, bake shops, candy factories, confectioners or other places for the manufacture of bread, cakes, confectionery and similar food products, for the purpose more especially of ascertaining their sanitary condition and cleanliness, and for the purpose of ascertaining the purity, healthfulness and wholesomeness of the flour, sugar, butter, lard or other ingredients used in making such bread, cakes, confectionery and other articles of food offered for sale in the City of Baltimore, or intended for consumption therein, as by ordinance may be prescribed.

*Deems v. M. & C. C. of Baltimore*, 80 Md. 170.

1894, ch. 53.

**74.** The Commissioner of Health shall appoint all inspectors and analysts for the proper inspection of milk or any and all

other food products offered for sale in the City of Baltimore, or intended for consumption therein, as by ordinance may be prescribed.

Deems v. M. & C. C. of Baltimore, 80 Md. 170.

75. One of the Assistant Commissioners of Health, who shall be a legally authorized practicing physician in good standing, shall be assigned to the performance of the duties of Quarantine Hospital Physician. He shall reside permanently on the grounds attached to the Hospital on the southern shore of the Patapsco River, and known as the Quarantine Hospital of the port of Baltimore, and shall superintend all the affairs of the hospital and the adjacent grounds, under the direction of the Commissioner of Health. Whatever powers have been heretofore granted by the Mayor and City Council of Baltimore, in regard to quarantine regulations, to the Board of Health, are hereby transferred to the Commissioner of Health, subject to alteration, amendment or repeal by ordinances not inconsistent with this Article.

76. In consideration of the duties to be performed by one of the Assistant Commissioners of Health as Quarantine Hospital Physician, said officer shall hereafter receive, in lieu of all commissions and fees, a salary of three thousand dollars per annum, payable monthly, and he 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. The other Assistant Commissioner of Health shall be allowed a salary of two thousand dollars per annum, payable monthly.

1898, ch. 123. 1900, ch. 109.

77. The Commissioner of Health shall annually appoint a Vaccine Physician for every ward of the City of Baltimore, who shall be a resident of the ward for which he may be appointed, who shall vaccinate in his ward all such persons as may be designated by the Commissioner or Assistant Commissioner of Health as susceptible to small-pox contagion, and whose duty it shall be to visit each dwelling house in the ward for which he is appointed 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 ward requiring vaccination. He shall keep a record of the names, ages and residences of all whom he shall

vaccinate or re-vaccinate, and report the same monthly under oath or affirmation to the Commissioner of Health, and shall also report to said Commissioner of Health monthly the names of all persons who shall refuse to suffer themselves or the members of their household to be vaccinated when the same shall be necessary. He shall discharge all other duties which may be required of him as such Vaccine Physician by ordinances not inconsistent with this Article, and shall also discharge the duties of Sanitary Inspector for his ward. Each Vaccine Physician shall be paid a salary of not more than nine hundred dollars (\$900) per annum, to be fixed by the Health Commissioner, payable monthly.

78. Each of the said Vaccine Physicians shall act as health warden of his respective wards, and shall sign, without charge, all certificates that may be required of him to enable children from the respective vaccine districts to enter any of the public schools of Baltimore; and he shall have a general supervision of the health of his respective wards, and report to the Commissioner of Health any nuisance which in his opinion is or may become a source of disease, and in case of the manifestation of any contagious disease, he shall at once, under the direction of the Commissioner of Health, proceed to use such means as the nature of the case may demand, to arrest its progress.

#### INSPECTOR OF BUILDINGS.

79. The Inspector of Buildings shall be the head of the third sub-department of Public Safety. He shall be an architect or builder of ten years' experience in the active practice of his profession and have had responsible charge of work for at least that length of time. He shall be appointed by the Mayor in the mode prescribed in section 25 of this Article, and hold his office as therein provided, and under this department he shall have the supervision of the construction of all buildings erected in the said city, and shall see that the building laws relating to the construction of said buildings shall be complied with, and he shall perform such other duties as may be prescribed by ordinances not inconsistent with this Article. He shall be paid a salary of three thousand dollars per annum, payable monthly.

1882, ch. 74. P. L. L., (1888) Art. 4, sec. 129.

80. It shall be the duty of the Inspector of Buildings to

visit and inspect all theatres, hotels, public halls, churches, school-houses and buildings used for public assemblages, and all manufactories employing twenty-five or more persons, now erected or that may hereafter be erected in the City of Baltimore for the purpose of ascertaining if said buildings have the proper means of exit in case of fire or panic; and if, on examination, the said Inspector of Buildings, shall determine that said buildings, as herein enumerated, have not the proper means of exit for the purposes herein prescribed, then it shall be the duty of the said Inspector of Buildings to notify in writing, the owners, trustees or lessees of said buildings that the proper means of exit do not exist, and direct the said owners, trustees or lessees of said buildings, as herein enumerated, to so improve the same as to provide the proper means of exit, in case of fire or panic, as in the judgment of the said Inspector of Buildings he may deem proper and necessary.

1882, ch. 74. P. L. L., (1888) Art. 4, sec. 130.

81. If any person having been notified, as provided in the preceding section, shall fail to comply with said notice, he shall, after the expiration of thirty days from the date of said notice, forfeit and pay a fine of one hundred dollars for non-compliance therewith, and twenty-five dollars per day for each and every day thereafter that he shall refuse to make such improvements as prescribed in the notice so given, as provided in the preceding section; said fines to be collected as other fines are collected by law.

82. It shall be the duty of the Inspector of Buildings to enforce the execution of all existing or hereafter enacted building regulations and ordinances relating to the construction, alteration and removal of buildings, or other structures, walls or parts of buildings or other structures. The Inspector of Buildings shall have power to appoint such assistants and subordinates, clerks and employees as are or may hereafter be prescribed by ordinance, and fix their compensation, not to exceed in the aggregate the amount allowed by ordinance.

#### COMMISSIONER OF STREET CLEANING.

83. The Commissioner of Street Cleaning shall be the head of the fourth sub-department of Public Safety. He shall be appointed by the Mayor in the mode prescribed in section 25 of this Article, and hold his office as therein provided. He shall be charged with the duty of cleaning the streets, as well as the

cleaning of the sewers, subject as to the latter to the direction and orders of the City Engineer; and shall perform such other duties as may be prescribed by ordinances not inconsistent with this Article. He shall be paid a salary of two thousand five hundred dollars per annum, payable monthly. The Commissioner may appoint such subordinates as his department shall require, and fix their compensation, not to exceed in the aggregate the amount appropriated by ordinance.

## DEPARTMENT OF PUBLIC IMPROVEMENTS.

1914, ch. 852.

84. There shall be a Department of Public Improvements of the Mayor and City Council of Baltimore, the head of which department shall be the Chief Engineer of Baltimore, who shall be appointed by the Mayor in the mode prescribed in section 25 of this Article, and hold his office as therein provided, except that the first Chief Engineer who shall be appointed in pursuance of this Act may be appointed by the Mayor as soon after the passage of this Act as to him may seem proper, to hold office until the first Monday in October, 1915. The said Chief Engineer of Baltimore shall be a civil engineer of standing in his profession and shall have been in active practice and have had responsible charge of work for at least five years; he shall have supervision of all engineering questions and matters connected with any and every public improvement in Baltimore City or elsewhere, made by the Mayor and City Council of Baltimore, or any department, board or agency thereof, and all plans and specifications for all such public improvements involving any engineering question or questions shall be submitted to him and be subject to his approval. He shall take the place of the City Engineer as Chief Engineer of the Paving Commission and shall advise the Board of Estimates on all engineering matters; he shall perform such other duties as may be imposed upon him by ordinances of the Mayor and City Council of Baltimore or by the Board of Estimates not inconsistent with those herein specified; he shall receive a salary of \$4,500.00 per annum, payable as the salaries of other city officials, subject, however, to the provisions of section 36A of the City Charter; he shall give his whole time and attention to the duties of his position, and shall not accept or engage in any other employment during the time of holding said position, except by the previous consent of the Board of Estimates entered upon their minutes. The organization of the Department of Public Improvements shall con-



sist of the Chief Engineer of Baltimore, as president, and of the following sub-departments:

Highways Engineer,  
 Commission on City Plan,  
 Topographical Survey Commission,  
 Sewerage Commission,  
 Paving Commission,  
 Annex Improvement Commission,  
 Electrical Commission,  
 Water Board,  
 Harbor Board,  
 Inspector of Buildings,  
 City Surveyor.

The City Surveyor, under the direction of the Chief Engineer, shall perform such duties as may be imposed upon him by ordinance; he shall receive as compensation for the discharge of his duties the sum of three thousand dollars (\$3,000.00) per annum, payable as the salaries of other city officials are payable, which shall be in lieu of all fees or emoluments received by him which have been heretofore chargeable to the city, and all fees and emoluments which he may receive from any party other than the city shall be collected by him and turned over to the Comptroller and credited to the general revenue of the city.

The Highways Engineer, under the direction of the Chief Engineer of Baltimore, shall perform all the duties heretofore performed, or required by any law to be performed, by the City Engineer, except the duties of the Chief Engineer of the Paving Commission, which shall be performed by the Chief Engineer of Baltimore.

The other sub-departments above mentioned shall continue to perform the duties imposed upon them by law as heretofore, excepting only that they shall be subject to the supervision and direction of the Chief Engineer of Baltimore as herein provided. He shall be the arbiter of all questions and controversies that may arise between any of the said sub-departments or between the engineers of said sub-departments, and his decision shall be final. He shall have power to call together for consultation, whenever he deems it advisable, the Highways Engineer, the Water Engineer, the Harbor Engineer, the City Surveyor, and the Engineer of each of the other sub-departments above mentioned, or the chief engineer of any of said sub-departments having more than one engineer. Upon request of any sub-department, or the head or engineer thereof, or any other party in interest, he shall call together the engineers above mentioned

to discuss and give their opinions upon any engineering question that may arise or be presented for his determination; and, in the event of any controversy between any of the sub-departments or the engineers thereof, he shall give opportunity to both sides to be heard before said board of engineers; but after such hearing, and after hearing the opinions of said engineers, the decision of the matter shall be made by the said Chief Engineer. Whenever, because of sickness, temporary absence from the city, or other disability, or under the stress of conflicting engagements or other reasonable necessity, the Chief Engineer of Baltimore shall be unable to discharge any duties or exercise any power imposed or conferred upon him in person in his primary capacity as Chief Engineer of Baltimore, by law or ordinance, he shall be and is hereby authorized to delegate in writing, subject to the approval of the Mayor, the discharge of such duty or the exercise of such power to such one or more of his chief subordinates as he may select.

There shall be connected with said Department of Public Improvements a Board of Public Improvements, composed of the Chief Engineer of Baltimore, the Highways Engineer, the Water Engineer, the Harbor Engineer, and the Inspector of Buildings. This Board shall be for consultation and advice. It shall have no power to direct or control the duties or the work of any sub-department under this Department. It shall perform such other duties as may be required of it by ordinances not inconsistent with this Article.

85. When any ordinance for a public improvement, not included in the ordinance of estimates furnished by the Board of Estimates under the provisions of this Article, exceeding in cost the sum of two thousand dollars has passed its first reading in the Branch of the City Council in which it originates, it shall be referred to the Board of Public Improvements for an opinion, in writing, as to its advisability and whether the wants of the city actually require such an improvement, and by the last-named Board with such opinion attached to said ordinance it shall be sent to the Board of Estimates for its opinion, in writing, as to the probable cost of the same and whether the financial condition of the city will justify such an expenditure. No further action with regard to said ordinance shall be taken by the City Council until such reports have been made and submitted to both Branches of the City Council and read and entered on the respective journals of said Branches. It shall be the duty of both of the said Boards to promptly make

the said reports and the Board of Estimates shall return the same attached to said ordinance to the City Council.

Baltimore City v. Gorter, 93 Md. 13.

### HIGHWAYS ENGINEER.

1906, ch. 459. 1914, ch. 852.

86. The Highways Engineer, who shall be the head of the first sub-department of Public Improvements, shall be appointed by the Mayor in the mode prescribed in section 25 of this Article, and hold his office as therein provided. He shall have control and supervision of the streets, highways, lanes and alleys of the City of Baltimore, both as to their construction, paving and curbing. He shall construct all sewers, unless otherwise provided by ordinance of the City Council or Act of the Legislature. He shall be a civil engineer in the active practice of his profession for five years, and one who has had responsible charge of work for at least that length of time. He shall perform all the duties heretofore performed by the City Engineer, unless otherwise provided in this Article. He shall receive a salary of forty-five hundred dollars (\$4,500.00) per annum, payable monthly, and perform such other duties as may be prescribed by ordinances not inconsistent with this Article. He shall have power to appoint such subordinates as he may require, and fix their compensation, not, however, to exceed in number or compensation the limits fixed by ordinance (provided, however, that nothing in this Act contained shall be construed to in any wise impair or modify the powers conferred upon the Sewerage Commission created under the provisions of Chapter 349 of the Acts of 1904).

86A. Repealed by Act of 1914, ch. 852.

### PROTECTION OF IMPROVED PAVEMENTS.

1906, ch. 798.

86B. Whenever any of the streets, lanes or alleys of the City of Baltimore are to be paved or repaved with any new or improved pavements, the City Engineer before said paving or repaving is proceeded with shall cause a notice to be inserted in two daily newspapers published in the City of Baltimore, once a week for four successive weeks, notifying all persons and corporations that upon the expiration of a day to be named in said notice, said day not to be less than six weeks from the date of the first insertion of said notice, he will proceed with said paving or repaving and warning said persons and corporations to

obtain permits for and to complete all work that might in any way necessitate the digging or tearing up of the said street, lane or alley, or any part thereof when so paved or repaved, before said day, and written or printed notices of like tenor and effect shall likewise at least four weeks before the expiration of said day, be served by the City Engineer, or on his behalf, upon all persons or corporations that he may suppose to be interested in receiving such notices; provided, however, that the service of such last mentioned notices shall not be so construed as to be one of the prerequisites to the validity of the proceedings by the city under this and the succeeding section of this Article.

1906, ch. 798.

**86C.** The said pavement or repavement when thereafter laid shall in no event be dug or torn up in whole or in part at the instance of or by any person or corporation, unless in the case of some special emergency that could not under the circumstances be reasonably expected to have been foreseen by said person or corporation, except upon a permit obtained therefor, signed and issued by the Mayor and City Engineer, jointly, which said permit said Mayor and City Engineer are expressly empowered in their absolute discretion to issue or withhold as the circumstances may appear to them to warrant. In case the said Mayor and City Engineer determine to issue said permit, they may attach such conditions and terms thereto as they may deem right and proper.

1912, ch. 429.

**86D.** The City Engineer shall be the Chief Engineer, and after the Sewerage Commission shall have completed the sewerage system, under all Acts of the General Assembly of Maryland, and shall have turned the same over to the Mayor and City Council of Baltimore, as therein provided, the City Engineer shall have charge of the maintenance and extension of the sewerage system.

#### WATER BOARD.

**87.** The Water Board shall be the head of the second sub-department of Public Improvements, and shall have charge of the water supply to the inhabitants of the City of Baltimore, and shall consist of five persons appointed by the Mayor in the manner prescribed in section 25 of this Article, and hold their offices as therein provided. One of said five persons, who shall

be the President of said Board and known as the Water Engineer, and so named by the Mayor, shall be a civil engineer in the active practice of his profession for five years, and who has had responsible charge of work for at least that period of time. The Water Engineer shall receive a salary of four thousand dollars per annum, payable monthly, and the other members of said Board shall serve without pay. All subordinates employed in said sub-department shall be appointed by the Water Engineer, subject to the approval of said Board; he shall fix their compensation not to exceed in the aggregate the amount appropriated by ordinance. The Water Engineer and Water Board shall perform such other duties as now or may hereafter be prescribed by ordinances not inconsistent with this Article.

1904, ch. 364.

**87A.** The Water Board shall have such power and authority with reference to the assessing and establishing of rates either by meter, fixed charge or otherwise, for the supply and use of water for any purpose and at any point in Baltimore City and County, as may be delegated by said Board by ordinance of the Mayor and City Council of Baltimore; payments of said rates to be enforced as now provided by law; and the said Water Board shall also have such power and authority with reference to the abatement of water rates as may be delegated to them by ordinance of the Mayor and City Council of Baltimore.

### HARBOR BOARD.

1908, ch. 170.

**38.** The Harbor Board shall be the head of the third sub-department of Public Improvements, which shall have charge of the harbor, wharves and navigable waters, including bridges over same, in and adjacent to the City of Baltimore. It shall consist of five persons appointed by the Mayor in the manner prescribed in section 25 of this Article, who shall hold their offices as therein provided. One of said five persons, who shall be the president of said board, and known as the Harbor Engineer, and so named by the Mayor, shall be a civil engineer in the active practice of his profession for five years, and who has had responsible charge of work for at least that period of time. The Harbor Engineer shall receive a salary of four thousand dollars per annum, payable monthly, and the other members of said board shall serve without pay. All subordinates employed in said sub-department shall be appointed by the Harbor Engineer, subject to the approval of said board; he shall fix their

compensation, not to exceed in the aggregate the amount appropriated by ordinance. The Harbor Engineer and Harbor Board shall perform such other duties as may hereafter be prescribed by ordinances not inconsistent with this Article.

### INSPECTOR OF BUILDINGS.

89. The Inspector of Buildings shall be the head of the fourth sub-department of Public Improvements, and shall be the same officer whose appointment is provided for herein in the Department of Public Safety. The duties he shall perform in this department and sub-department shall be the superintendence of the construction and repairing of all buildings built by the city, unless otherwise provided by ordinances. He shall receive no additional pay for his services rendered in this department. He shall perform such other duties in this department as may be required of him by ordinances not inconsistent with this Article.

### DEPARTMENT OF PUBLIC PARKS AND SQUARES.

1906, ch. 416.

90. There shall be a Department of Public Parks and Squares of the Mayor and City Council of Baltimore, the head of said department shall consist of a Board of Park Commissioners composed of five members to serve without pay, appointed by the Mayor in the manner prescribed in section 25 of this Article, one of whom shall be the President thereof, and shall be so designated by the Mayor. Their term of office shall be five years, one of them to retire at the end of every year at which time his successor shall be appointed. The present Board shall determine by lots their terms of office so as to provide for the retirement of one of its members on the first Monday in October in the year 1906, and one at the end of each year thereafter succeeding; provided, however, that none of the present Board shall serve for a longer term than five years, unless reappointed; said Board shall elect a secretary, who shall be paid a salary of one thousand five hundred dollars (\$1,500) per annum, payable monthly, and he shall be the clerk of said Board, and shall perform such duties as may be prescribed by said Board. The said Board shall perform such other duties as may be prescribed by ordinances not inconsistent with this Article.

1906, ch. 416.

91. The Board of Park Commissioners shall have charge

and control of all public parks, squares, boulevards leading to parks, springs and monuments belonging to and controlled by or in the custody of the Mayor and City Council of Baltimore; and it shall have power and authority to rent or lease property, which it may acquire on behalf of the city, whether by purchase, condemnation or otherwise, at such reasonable rentals, and for such terms as to the said Board may seem proper.

1862, ch. 29. P. L. L., (1888) Art. 4, sec. 706.

92. The Board of Park Commissioners shall have power from time to time to make such rules and regulations for the government and preservation of order within the parks, squares, springs and monuments belonging to, controlled by, or in the custody of the Mayor and City Council of Baltimore, as it may deem expedient. To carry out such regulations, fines not exceeding in any one case one hundred dollars shall be imposed for breaches of said rules and regulations, which fines shall be recoverable as other fines are in the name of the city, and said amounts so recovered shall be used and appropriated to the purposes of the Board of Park Commissioners.

1876, ch. 40. P. L. L., (1888) Art. 4, sec. 707. 1902, ch. 92. 1906, ch. 416.

93. The Board of Park Commissioners is authorized and empowered to regulate the speed of vehicles and equestrians within one mile of the approach and within the limits of said parks and squares, and to impose the fines provided for in the preceding section for the violation of any regulations it may establish in this connection, to be recovered as therein provided; but the said Board of Park Commissioners shall have no authority to pass any rule or regulation excluding private automobiles from the free use of the parks, squares and roadways under its control, nor shall the said Board of Park Commissioners have authority to pass any rule or regulation requiring vehicles, equestrians or automobiles to travel at a slower rate of speed than six miles per hour. The said Board shall also have power and authority to admit into the parks, squares and boulevards under its control, public conveyances, whether automobiles, wagons, or any other kind of vehicles, upon such terms and conditions as to charges and otherwise, as to the said Board may seem proper.

1908, ch. 106.

93A. The Board of Park Commissioners is authorized and empowered to establish athletic fields and playgrounds in the public parks of Baltimore City for the use of the students of

the public schools of said city, and to designate the grades and classes of students who shall use the different playgrounds which may be so established, and to prescribe rules and regulations for the use thereof, and for the exclusion under reasonable conditions of other persons therefrom.

1862, ch. 29. P. L. L., (1888) Art. 4, sec. 708.

94. The several members of the said Board of Park Commissioners shall have the power of conservators of the peace within the limits of said parks and squares.

1862, ch. 29. P. L. L., (1888) Art. 4, sec. 709.

95. The Board of Police Commissioners of Baltimore City is directed at the request of the Board of Park Commissioners to detail from time to time such of the regular police force of said city as the said Board of Park Commissioners may deem necessary for the preservation of order within said parks and squares, according to the regulations aforesaid, which policemen shall be under the direction of said Board of Park Commissioners, and shall have the same power in said parks and squares that the Police of the City of Baltimore have as conservators of the peace in Baltimore City or elsewhere.

Upshur v. Baltimore City, 94 Md. 743.

1876, ch. 344. P. L. L., (1888) Art. 4, sec. 712.

96. In addition to the powers now or hereafter conferred upon the Board of Park Commissioners, it is authorized to form zoological collections within the limits of said parks or squares by the purchase and collection of live, wild or other animals, for the purpose of public exhibition.

1876, ch. 344. P. L. L., (1888) Art. 4, sec. 717.

97. The said Board of Park Commissioners shall have full power to employ and compensate all persons whom, in its judgment, it may deem proper, in maintaining and supporting such parks, squares, springs and monuments, or any other building, collection, garden or reservation provided for in this Article. The distribution of the park fund for the maintenance of the different parks and squares shall be made by the Park Commissioners.

Addition made by Act of 1900, ch. 109, omitted in pursuance of M. & C. C. v. Williams, 124 Md. 502.



1886, ch. 354. P. L. L., (1888) Art. 4, sec. 719.

98. The night watchmen employed by the Board of Park Commissioners shall have, while on duty, the same power that police in said city have as conservators of the peace.

1908, ch. 147.

98a. That the jurisdiction of the Board of Park Commissioners of the City of Baltimore be and the same is hereby extended over the sidewalks which border on Harlem Park, in said city, on all sides of said park to the curb lines of said sidewalks, as now established.

1910, ch. 142.

98b. That the jurisdiction of the Board of Park Commissioners of the City of Baltimore be, and the same is hereby, extended over the sidewalks which border on Collington Square, or Park, in said city, on all sides of said square, or park, to the curb lines of said sidewalks, as now established.

## DEPARTMENT OF EDUCATION.

1906, ch. 107.

99. There shall be a Department of Education of the Mayor and City Council of Baltimore. The head of said department shall consist of a Board of School Commissioners composed of nine persons, who shall serve without pay, and who shall be appointed by the Mayor in the mode prescribed in section 25 of this Article, and removable as therein provided. One of said Commissioners shall be President of said Board and so designated by the Mayor when appointed. Their term of office shall be six years, three of them to retire at the end of every two years. The Board first appointed shall determine by lot their term of office, so as to provide for the retirement in the succeeding two and four years of three of their number. The members of said Board shall be residents of the City of Baltimore for at least one year, citizens of the State of Maryland for at least five years prior to their appointment. The members of said Board shall be chosen by the Mayor from among those he deems most capable of promoting the interest of public education by reason of their intelligence, character, education or business habits. In the selection of members of said Board and in their action in the administration of the public schools, ecclesiastical and party ties shall not be regarded, so that the public schools may be entirely out of the field of political and

religious differences and controversies. The said Board shall confirm or reject all nominations of teachers made to it, as hereinafter provided by the Superintendent of Public Instruction and his assistants. It shall not confirm the appointment of any teacher whose name does not appear upon the graded list, hereinafter provided for. All officers, secretaries, clerks and employees shall be appointed by said Board, and may be removed by it at pleasure, and any teacher may be removed by said Board on the recommendation of the Superintendent of Public Instruction after charges preferred and trial had. The salary of all officers, teachers, secretaries, clerks and employees shall be fixed by said Board, not to exceed in the aggregate the amount appropriated by ordinance. Whenever the construction of a new schoolhouse or the enlargement and repairs of an old schoolhouse is authorized, the instructions of the Board of School Commissioners shall be regarded by the Inspector of Buildings in the preparation of his plans, and no plans shall be finally adopted without the concurrence of said Board. All text-books, stationery and furniture required for the public schools shall be purchased by the said Board, subject to the provisions of sections 14 and 15 of this Article.

In reference to powers of Board of School Commissioners, *see*: School Commrs. of Balto. v. State Board of Education, 26 Md. 512. Weddle v. Board School Commrs., 94 Md. 334.

Power, School Commissioners—appointment teachers.

*Semmes, et al. v. Rowland*, 114 Md. 260.

Members of the School Board are not liable for their official acts, unless they "do wrong wilfully, fraudulently and corruptly."

*Roschen v. School Commissioners*, 116 Md. 42, 49.

Trial must be upon sufficient charges—it seems teacher on trial entitled to be represented by counsel.

*Riggs v. Green*, 118 Md. 219.

100. The said Board shall appoint the principal, professors, tutors and instructors of the City College, the principals, tutors and instructors of the Polytechnic Institutes, and of the High Schools. It shall also appoint a Superintendent of Public Instruction and one or more Assistant Superintendents of Public Instruction, one of whom shall be the First Assistant, and shall act as Superintendent of Public Instruction if that officer is disabled. The said Superintendents shall all be persons of education and experience in the management of schools, and they shall not be less than twenty-five years of age, at the time of their appointment, and shall discharge the duties herein prescribed and such other duties as the said Board may direct. In order to secure the continuance of local interest in and

oversight of the public schools, there shall be appointed annually by said Board such number of unpaid School Visitors as may be found requisite. One or more of these visitors shall be assigned to every school, and every visitor so assigned shall be a resident or engaged in business within half mile of the school to which he or she is assigned, so that the parents and inhabitants of every neighborhood may have easy access to an official of the public schools. The said visitors shall perform the duties hereinafter prescribed, and such other duties as the said Board may direct. The said Board may also appoint a supervisor of the heating, plumbing and ventilation of school buildings, to be known as Supervisor of School Buildings, who shall, in addition to the supervision of school buildings in respect to their heating, plumbing and ventilating, perform such other duties as the Board may direct.

Baltimore City v. Lyman, 92 Md. 611.

#### SUPERINTENDENT AND ASSISTANT SUPERINTENDENTS OF PUBLIC INSTRUCTION.

101. The duties of the Superintendent of Public Instruction and Assistant Superintendents of Public Instruction shall include the examination of teachers and their nomination to the Board of School Commissioners for appointment or promotion, and the supervision of schools, and the study and suggestion of methods by which the public school system of the City of Baltimore may be maintained and improved. They shall hold regular meetings as a Board of Superintendents of Public Instruction and keep a record of the same, which shall be submitted to the Board of School Commissioners. For the work of supervision and examination, standing committees shall be designated by the Superintendent of Public Instruction annually. Of every such committee, the Superintendent of Public Instruction or the First Assistant Superintendent of Public Instruction, or both, shall be members *ex officio*, and the number of additional members shall be determined from time to time, as circumstances may require. Every school shall be visited at frequent intervals by the Superintendent of Public Instruction or one of the Assistant Superintendents of Public Instruction, and written reports on its condition shall be filed in the office of the Superintendent of Public Instruction, with such recommendations as circumstances may call for. It shall be the duty of the Superintendent of Public Instruction and his Assistants, to devote their services exclusively to the public schools under such regulations as the Board of School Commissioners may

prescribe. It shall be the duty of the said Superintendent of Public Instruction, with the aid of the Supervisor of School Buildings, to ascertain the sanitary condition of every school, and to report to the proper authorities what repairs or improvements are necessary. It shall be the duty of the Superintendent of Public Instruction and his Assistants, as examiners, to ascertain, by appropriate committees, appointed as hereinbefore provided, the training, knowledge, aptness for teaching, and character of every future candidate for the place of a teacher, and to report to the Board of School Commissioners graded lists of those whom they deem qualified for appointment, from which graded lists all nominations of teachers shall be made by the Superintendent of Public Instruction and his Assistants to the Board of School Commissioners. All such nominations of teachers shall be made in the order in which the names of the nominees appear upon such graded lists. In the preparation of these graded lists, the Superintendent of Public Instruction and his Assistants shall ascertain by competitive examinations the relative qualifications of those candidates who desire appointment, and shall place the names of the accepted candidates upon said graded lists in the order of their relative qualifications, so ascertained by such competitive examination. It shall be their duty to advise the Board of School Commissioners whenever called upon, or whenever they think it important, in respect to the course of studies, text-books or methods of instruction. Whenever the Superintendent of Public Instruction and his Assistants are in doubt what course to pursue, they shall ask instructions from the Board of School Commissioners, to whom they may present a majority and minority report, and the decision of the Board of School Commissioners shall be final. The Superintendent of Public Instruction and his Assistants shall perform such other duties as may be prescribed by order of the Board of School Commissioners not inconsistent with this Article.

Baltimore City v. Lyman, 92 Md. 591.

**102.** It shall be the duty of the School Visitors, hereinbefore provided for, to visit the schools to which they are assigned, and to report upon their condition at least once in every quarter, and oftener if they think it desirable. In case of an emergency requiring attention, they shall immediately notify the Superintendent of Public Instruction. The said School Visitors may be called together by the Board of School Commissioners or the Superintendent of Public Instruction whenever the interests of the schools require it, or whenever it is thought important for

the office of a visitor to be defined, the organization of the school system to be considered and the characteristics of a good school to be clearly stated to them. They shall perform such other duties as the Board of School Commissioners may prescribe, not inconsistent with this Article.

1908, ch. 78.

102A. There shall be a board to be known as the board of trustees of the 'Teachers' Retirement Fund of Baltimore City, to be composed of seven persons, who shall serve without compensation for their duties as members of said board. The said board of trustees shall be composed of the City Comptroller, the Superintendent of Public Instruction, two members of the Board of School Commissioners, to be elected by said Board of School Commissioners annually in the month of November, beginning in the year 1909, and the members so elected shall become members of said board of trustees on the fifteenth day of January next following the date of their election, provided that as soon as practicable after the passage of this Act, the Board of School Commissioners shall elect two of its members to serve as members of the said board of trustees until the members elected in November, 1909, shall become members of said board of trustees; and three members of the teaching force of Baltimore city, who shall be elected in the following manner: On the third Monday of November in each year, beginning in the year 1909, the members of the teaching force of Baltimore City shall deposit with the said Board of Trustees a sealed ballot containing the names of three teachers representing his or her choice for membership of the said board of trustees. The Board of Trustees shall examine said ballots and give to each teacher receiving a vote credit therefor, and the three teachers receiving the highest number of votes under the said ballots shall become members of the said Board of Trustees on the fifteenth day of January next following the date of their election. The Board of Trustees shall publicly announce the result of said election not later than the fifteenth day of December next following the date said ballots were deposited; provided, however, that on the third Monday of May, 1908, three members of the teaching force of Baltimore City shall be elected in the manner provided, except the said ballots shall be deposited with the Board of School Commissioners, which Board shall examine such ballots and give to each voter receiving a vote credit therefor, and the three teachers receiving the highest number of votes under said ballots shall be members of said Board of Trustees until the members elected in the year 1909

shall become members of said Board of Trustees. The Board of School Commissioners shall publicly announce the result of said election not later than June 15, 1908. As soon as practicable after the passage of this Act the City Comptroller shall call a meeting of said Board of Trustees.

1908, ch. 78.

**102B.** The members of the said Board of Trustees shall hold office until their successors are elected and become members as provided by the preceding section. In case of a vacancy in said Board of Trustees by reason of death, resignation, or through any other cause, of a member of the teaching force, the Board of Trustees shall elect a member of said teaching force as a member of said Board of Trustees for the unexpired term of the person who has caused to be such; in case of a vacancy on said Board of Trustees by reason of death, resignation or through any other cause, of a member of the Board of School Commissioners, the said Board of School Commissioners shall forthwith elect one of its members as a member of said Board of Trustees for the unexpired term of the person who has ceased to be such.

1908, ch. 78.

**102C.** A majority of said Board of Trustees shall constitute a quorum for the transaction of all business, and the said Board shall have full power to make and enforce all by-laws, rules and orders that it may deem necessary or appropriate to carry out the purposes of this Act, and said Board of Trustees may take by gift, grant, devise or bequest, any money, personal property, real estate or any interest therein, and any such gift, grant, devise or bequest may be absolute, or upon the condition that only the rents, profits and income arising from the same shall be applied to the uses and purposes of the Teachers' Retirement Fund, hereinafter mentioned, and said Board shall be authorized to take such gift, devise or bequest under and by the style of the Board of Trustees of the Teachers' Retirement Fund of Baltimore City, and to hold the same, or assign, transfer or sell the same, whenever proper and necessary, under and by such name.

1908, ch. 78.

**102D.** Said Board of Trustees shall elect from its members a president, and shall appoint a secretary and a treasurer, both of which offices may be held by the same person, and the said

Board of Trustees shall have power to appoint such other employees as it may from time to time deem necessary to carry out the purposes of this Act, and the said board shall pay to the secretary, treasurer and employees such salaries as may be fixed by the board; provided, that the salaries paid to the secretary, treasurer and such other employees, and the number of such other employees shall be subjected to the approval of the Board of Estimates. It shall be the duty of the secretary to keep a true and accurate account of the proceedings of said Board of Trustees when acting upon matters relating to said Teachers' Retirement Fund, and he shall perform such other duties as the Board of Trustees shall direct. The secretary of the Board of School Commissioners of said city shall act as assistant secretary of the Board of Trustees with such additional compensation therefor as may be fixed and paid by the Board of Trustees, with the approval of the Board of Estimates, and it shall be his duty to keep a true and correct statement of the account of each member with the Teachers' Retirement Fund, and to render to the Board of Trustees a monthly account of his doings. The treasurer of said Board of Trustees shall receive, hold and keep account of all moneys belonging to the Teachers' Retirement Fund; he shall have the custody of all notes, bonds and other securities belonging to said Teachers' Retirement Fund, and shall collect the principal and interest of the same, but before assuming to act as such treasurer, he shall furnish bond in such penalty and with such surety or sureties as the Board of Trustees may require, conditioned for the faithful performance of the duties imposed upon him by this Act, or that may be assigned to him by the Board of Trustees, and for the faithful accounting of all moneys and securities, including both principal and interest, which may come into his hands and which belong to the Teachers' Retirement Fund. Said treasurer, upon the expiration of his term of office, shall account to said board for all moneys, notes, bonds and other securities coming into his hands, and for the interest, income, profits, rentals and proceeds of and from the same, and he shall turn over to his successor all moneys, notes, bonds, and other securities belonging to said fund. The secretary, assistant secretary and treasurer shall make a full, true and accurate account of their offices whenever required so to do by the Board of Trustees.

1908, ch. 78.

102E. Every teacher who is such at the time of the passage of this Act, shall, as soon as practicable thereafter, notify

the said Board of Trustees, in writing, whether he or she desires to accept the advantages of this Act, or any amendments thereto, and every such acceptance, when given, shall be irrevocable, and no such teacher who does not so accept shall be eligible for election to said Board of Trustees nor shall he or she have the right to vote for members thereof, and every such teacher who shall fail so to accept before January 1, 1909, shall not be entitled to any benefits or advantages under this Act, until he or she shall have first paid into the Teachers' Retirement Fund an amount equal to the assessments he or she would have paid into said fund had such acceptance been given on December 31, 1908, together with twenty per centum of such amount.

1908, ch. 78.

102F. Hereafter the Board of School Commissioners shall require all applicants for appointment as teachers to agree, as a condition of appointment, to accept and abide by the provisions of this Act or any amendments thereto, and to pay the assessments provided for herein or that may be provided for hereafter.

1908, ch. 78.

102G. All money, property of any kind or securities that may come into the hands of the said Board of Trustees under the provisions of this Act, or any amendments thereto, shall be known as the Teachers' Retirement Fund, and the said Board of Trustees is hereby clothed with full and complete power and exclusive control over said fund, and is hereby empowered to have, demand, receive, hold, invest and re-invest the same for the promotion of the purposes of said fund, which shall consist of the following: First, assessments upon the salary of every teacher who shall notify the Board of Trustees of his or her acceptance of the provisions of this Act and amendments thereto, under section 102E, and assessments upon the salary of each and every teacher who may be appointed after the date of the passage of this Act, as follows: one per centum per annum (but not more than \$14.40) upon the salary of every teacher who shall not have been engaged in excess of ten years in the public schools of Baltimore City; one and one-half per centum per annum (but not more than \$21.60) upon the salary of every teacher who shall have been engaged in excess of ten years but not more than twenty years in said public schools; and two per centum per annum (but not more than \$28.80) upon the salary of every teacher who shall have been engaged



longer than twenty years in said public schools, and the secretary of the Board of School Commissioners shall prepare monthly a roll of assessments and place opposite the name of each and every teacher liable thereto one-twelfth of the amount of the annual assessment payable by him or her, and shall furnish forthwith a copy of such roll to the City Register, and the said City Register shall deduct and retain out of the monthly salary due to such teacher the amount of such monthly assessment, and the sum of such monthly assessments shall be immediately paid by the City Register to the said Board of Trustees. Second: Sums received from the Mayor and Council as follows: In case the Board of Trustees shall deem it expedient to have an additional sum to defray its expenses, to pay the salaries provided for herein or to add to the Teachers' Retirement Fund, the said Board of Trustees shall each year, in due time, prepare a full and detailed statement of the assets of said Teachers' Retirement Fund, and the additional sum which is required to defray said expenses, to pay said salaries or to add to the Teachers' Retirement Fund, and send the same to the Board of Estimates, as other estimates are sent to it in connection with the annual ordinance of estimates, and the Board of Estimates is hereby empowered, in its discretion, to insert such an appropriation in said ordinance for said purposes as it may deem proper, and when said appropriation has been received the same shall be paid over to the Board of Trustees, and the unexpended balance remaining at the end of each fiscal year shall be added to the permanent fund in accordance with section 102M of this Act. Third: All money, property of any kind or securities that may come into the hands of said Board of Trustees for the purposes of said Teachers' Retirement Fund by gift, grant, devise, bequest or otherwise.

1908, ch. 78.

**102H.** The Board of School Commissioners may retire from regular duty, upon its motion, and shall retire from regular duty, upon his or her own motion, in either case the approval of the Board of Trustees to be first obtained, any teacher who has been such for a period of forty years at the time such application is made, and the teacher so retired, provided he or she shall be entitled to the advantages of this Act under section 102E or 102F hereof, shall receive for life the salary provided for by section 102O. Every teacher who is such at the time of the passage of this Act, for the purposes of retirement under this section or the next succeeding section, after service of

twenty years as a member of the teaching force of Baltimore City, shall be entitled to full credit for his or her years of service as a public school teacher elsewhere.

1908, ch. 78.

102I. The Board of School Commissioners shall retire from regular duty, upon his or her own application, any teacher who has been such for a period of twenty years at the time such application is made, and who is disabled or incapacitated from performing regular duty, provided the Board of Trustees shall find such teacher so disabled or incapacitated after an examination made by a physician appointed by said Board of Trustees, the examination fee or charge to be paid by the teacher examined, and the teacher so retired, provided he or she shall be entitled to the advantages of this Act under sections 102E and 102F hereof, shall receive for life a salary of as many fortieths of that provided for by section 102O, as he or she may have served years at the time of such retirement, and if the Board of School Commissioners shall deem any teacher who has been such for a period of twenty years at the time the notices herein provided for are given, to be disabled or incapacitated from performing regular duty, the said Board of School Commissioners shall serve written notice to that effect upon the said teacher, and the president or secretary of the Board of Trustees, and proceedings shall then be had, after the notice provided for in section 102K, in accordance with the provisions of said section. If the Board of Trustees after such proceedings are had, shall find the said teacher to be incapacitated from performing regular duty, the Board of School Commissioners may retire such teacher from regular duty, and such teacher, if so retired, shall be entitled to a salary in the same manner and amount as if he or she had been retired upon his or her own application under this section.

1908, ch. 78.

102J. Unless teachers who may be retired under the two preceding sections, shall have paid into said Teachers' Retirement Fund, by way of assessment or otherwise, an amount equal at least to that which he or she shall be entitled to receive as a salary for the first year of retirement, the said Board of Trustees shall deduct one-fifth of the deficiency thereof from the amount of said salary for each of the first five years that the same may be payable.

1908, ch. 78.

**102K.** After any teacher shall have been retired under section 102I, the Board of Trustees shall have the right at any time to cause such teacher again to be brought before it and examined by its physician, and also to examine other witnesses for the purpose of ascertaining whether such teacher shall remain on the retired roll. The fee or charge of the examining physician shall be paid by the Board of Trustees. Such teacher shall be entitled to at least thirty days' notice, and to be present at the hearing of any such evidence, shall be permitted to propound any question pertinent or relative to such matter, and shall have the right to introduce evidence upon his or her own behalf. Such teacher and all witnesses shall be examined under oath, and any member of said Board of Trustees is hereby authorized and empowered to administer such oath. If the Board of Trustees shall find such teacher qualified for regular duty, he or she shall report to the Superintendent of Public Instruction of said city whenever required so to do by the Board of Trustees, and said Superintendent shall assign such teacher to such service or employment as may be within his or her power to perform, in the judgment of such Superintendent and of the examining physician employed by said Board of Trustees. During the time of such employment such teacher shall receive the regular salary therefor, and shall cease to be entitled to any payment out of said fund because of the disability or incapacity, on account of which such teacher was originally retired. Any teacher who may be retired under section 102I and re-assigned for active duty under this section, for the purposes of later retirement under this Act, shall be considered as having been in active service during the period of the former retirement.

1908, ch. 78.

**102L** Every teacher retired under the provisions of this Act shall continue as an employee of the Mayor and City Council, but shall be compensated from the Teachers' Retirement Fund, as provided for in this Act, and it shall be the duty of any teacher so retired to render, without extra compensation, such teaching services and at such times as the Board of School Commissioners shall direct, provided the Board of School Commissioners shall not direct any such retired teacher to perform any teaching services except such as the Board of Trustees may certify to the Board of School Commissioners to be within the reasonable physical power of such retired teacher, and provided

further, that no such retired teacher shall be required to render teaching service for a longer period than 15 days in any school year.

1908, ch. 78.

**102M.** The Board of Trustees shall establish a permanent fund to the credit of which shall be put and deposited all gifts, grants, devises and bequests, all other receipts for the first two years during which this Act shall have become operative, except so much of such receipts as the Board of Trustees may require during said two years to defray its expenses, and the unexpended balance remaining at the end of each fiscal year thereafter. And no part thereof shall be expended except the interest and income thereof and therefrom; provided, however, that one-half of the amount added to such permanent fund during any year may be used, if necessary, during the year immediately following.

1908, ch. 78.

**102N.** This Act shall not affect in any way the power of the Board of School Commissioners to remove teachers from service under the laws now in force.

1908, ch. 78.

**102O.** Upon the retirement of any teacher under section 102H, the person so retired shall be entitled to receive a salary for life out of the Teachers' Retirement Fund equal to one-half of his or her average annual salary for the five years immediately preceding retirement, but no salary of any teacher shall be less than \$360, nor greater than \$600 per annum, and the Board of Trustees, subject to such reasonable rules or regulations as the board may adopt, shall pay the salaries to the persons entitled thereto under this section and sections 102H and 102I.

1908, ch. 78.

**102P.** Any teacher who shall cease to be such before receiving any benefits from said Teachers' Retirement Fund shall be entitled to the return of one-half of the amount without interest, which shall have been paid into said Teachers' Retirement Fund by such teacher; provided, however, should such teacher thereafter again teach in the public schools of said city, such teacher shall repay to said Teachers' Retirement Fund the amount so returned to such teachers, within one year from the

date of his or her return to service in the schools, and upon such repayment being made he or she shall be entitled to credit the length of time of the former service. And should any teacher die before receiving any of the benefits by this Act provided, the Board of Trustees shall pay to such teacher's estate one-half the amount, without interest, which shall have been paid into said Teachers' Retirement Fund by said teacher.

1908, ch. 78.

**102Q.** No salary of any kind whatsoever provided for in this Act shall be payable or paid during the first two years during which said Act shall become operative; provided further, should any contributors to said Teachers' Retirement Fund make application for retirement under the provisions of this Act during said two years, his or her name shall be placed upon a waiting list, and he or she shall be retired in the order of his or her application when said two years shall have expired, but no teacher shall be retired by the Board of School Commissioners under this Act until after the expiration of said two years.

1908, ch. 78.

**102R.** The said Teachers' Retirement Fund and all salaries granted and payable out of the same shall be and are exempt from seizure or levy under attachment, execution, supplemental process and all other process; and such salaries or any payment of the same shall not be subject to sale, assignment or transfer by any beneficiary, and any such sale, assignment or transfer of the same shall be absolutely void.

1908, ch. 78.

**102S.** The terms "teachers" and "members of the teaching force of Baltimore City," as used in this Act, shall mean and include any superintendent, principal, vice-principal, assistant superintendent, supervisor, assistant supervisor, person in charge of any special department of instruction and any teacher or instructor regularly employed as such by the Board of School Commissioners of said city.

#### DEPARTMENT OF CHARITIES AND CORRECTIONS.

**103.** There shall be a Department of Charities and Corrections of the Mayor and City Council of Baltimore, which shall consist of the Supervisors of City Charities and the Visitors to the City Jail. The head of the Department of Charities and

Corrections shall be a Board of Charities and Corrections composed of the President and one other of the Supervisors of City Charities, the President and one other of the Visitors to the City Jail, and the Mayor *ex officio*. The Supervisors of City Charities and the Visitors to the City Jail shall each designate their representative member. The President of the Supervisors of City Charities shall be President of the Board of Charities and Corrections. This Board shall be for consultation and advice, but it shall have no power to direct or control the duties or work of any sub-department under this department. It shall perform such other duties as may be required of it by ordinances not inconsistent with this Article.

### SUPERVISORS OF CITY CHARITIES.

104. The Supervisors of City Charities shall be the first sub-department of Charities and Corrections, and the head of this sub-department shall be a board composed of nine persons, appointed by the Mayor as provided in section 25 of this Article, who shall be removable as therein provided. Their term of office shall be for six years, three of them to retire at the end of every two years; except that the Supervisors first appointed shall determine by lot their terms of office, so as to provide for the termination of the term of three Supervisors each at the end of the first two and four years. The said Supervisors shall have been citizens of Maryland for at least five years, and residents of the City of Baltimore for at least one year prior to their nomination. The Mayor, in the appointment of said Supervisors, shall designate one of their number as President, and the Supervisors shall elect a Secretary, who shall be paid a salary of one thousand five hundred dollars per annum, payable monthly, and shall discharge such duties as the Supervisors shall prescribe. The said Supervisors shall serve without pay. They shall be appointed by the Mayor from among those whom he deems, by reason of their intelligence, experience and character, to be most capable of caring for the poor, economically, intelligently and humanely. In the selection of said Supervisors and in their action, in matters relating to the duties imposed upon them by law or ordinance, ecclesiastical or party ties shall not be regarded, so that the care of the poor may be entirely out of the field of political or religious differences and controversies. The duty of said Supervisors shall be to determine what sick, insane or other destitute persons are proper charges on the city, and to provide for the proper care of such persons, in so far as money may be appropriated

for that purpose by the city. The Supervisors shall have the power to appoint and fix the compensation of such officials and subordinate employees as they may deem necessary for the proper conduct of the business entrusted to them, not to exceed in number of employees or aggregate amount in compensation the limit fixed by ordinance. The Supervisors shall report annually to the city upon all departments of their work, including the work of those institutions with which the city has contracted for the care of any poor persons, and they shall perform all the duties heretofore performed by the Trustees of the Poor unless otherwise provided in this Article.

1914, ch. 343.

104A. The Supervisors of City Charities shall also have supervision over those persons committed to the criminal, penal and reformatory institutions with which the Mayor and City Council of Baltimore have contracts, and shall perform such other duties as may be prescribed by ordinance, not inconsistent with this Article.

105. All appropriations by the Mayor and City Council of Baltimore for the treatment, care or support of the indigent poor in institutions not owned by the city, or for dispensary treatment shall be by contract, in which the city shall agree to pay so much per capita for persons placed, treated or prescribed for in such institutions or dispensaries so contracting with the city, and in no case shall a gross sum be paid to any such institution or dispensary. Every such contract shall contain a stipulation that the city shall incur no obligation therefrom for any amount not provided for or in excess of the appropriation made for the fiscal year in carrying out such contract. No public moneys shall be paid to any institution or dispensary for the treatment, care or support of any person until the said Supervisors have determined and certified in writing that such person is a proper subject of municipal aid.

In connection with appropriations by the Mayor and City Council of Baltimore for treatment, care or support of indigent poor, in institutions not owned by the city, *see*,

St. Mary's Indus. School v. Brown, 45 Md. 334.

106. No appropriation shall be made or money expended for the maintenance, outside of the Almshouse or other city home, of any adult poor person or persons, except the sick, insane or other special classes requiring special treatment, or homeless persons requiring temporary care only; *provided*, the city has adequate accommodations at the Almshouse or other city home.

All poor persons who, in the judgment of said Supervisors, require special care or treatment outside of a city institution, may be placed by said Supervisors in any institution or institutions with which the city has contracted for such care or treatment, which they, in the exercise of their judgment, after careful inspection and inquiry, shall deem best fitted to give the necessary care and treatment.

In connection with section 106, see provisions of Act. 1906, chapter 32 which re-enacts Article 4 of the Public General Laws of Maryland.

107. The Mayor and City Council of Baltimore, through the said Supervisors, shall have care and supervision over such children as shall be committed to or placed in those institutions with which the city may have contracted and as shall have been duly accepted by said Supervisors as proper charges on the city. Said Supervisors shall have power to remove any child from any such institution to which he or she has been committed or placed, and to place said child in any other such institution, when it is apparent to the Supervisors that from improper treatment or for other good cause, the welfare of the child requires such removal. No such child shall be discharged from the institution to which he or she shall have been committed or placed (unless by direction of a court of competent jurisdiction), or be transferred to any other institution, or to the care of any individual, without the approval and consent of the said Supervisors. It shall be the duty of the Supervisors, as far as is practicable, to place all destitute or neglected children who are under their care or in their charge, in some institution or home for children, or, without payment of board in some respectable family in the State of Maryland, and to have the children visited, and their circumstances carefully examined at least once in every six months by one of the Supervisors or by a skilled agent or agents appointed by them for the purpose. On the preliminary question of the commitment of any destitute or neglected child, said Supervisors, or their agent, shall be summoned by the committing officer and heard as to whether the parent or guardian of the child to be committed is entitled to the aid of the city, and if on return of the summons of the said Supervisors, or their agent, further time is required by them, or him, to make inquiry as to the pecuniary ability of said parent or guardian further time, not exceeding twenty-four hours, shall be given. The wish and request of the parent or guardian as to the place of commitment shall be respected, unless good cause to the contrary be shown by the Supervisors.



The Supervisors of City Charities shall have power to place foundlings in any proper institution with which the city has a contract.

P. L. L., (1860) Art. 4, sec. 42. P. L. L., (1888) Art. 4, sec. 39.

108. The Supervisors may admit into the Almshouse and receive under their care, in addition to those paupers which the laws of this State authorize and require, such indigent or distressed persons as in their opinion the dictates of humanity or particular circumstances render proper or necessary. In cases of emergency any Supervisor may direct the admission of any destitute, indigent or distressed person to the Almshouse.

P. L. L., (1860) Art. 4, sec. 43. P. L. L., (1888) Art. 4, sec. 40.

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

P. L. L., (1860) Art. 4, sec. 44. P. L. L., (1888) Art. 4, sec. 41.

110. The Supervisors 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.

P. L. L., (1860) Art. 4, sec. 57. P. L. L., (1888) Art. 4, sec. 53.

111. The Supervisors shall meet at the Almshouse five times in the year, to wit: in the first week of February, April, June, October and December, or oftener, if they shall deem it necessary; and shall make by a majority of votes of such as may be present, all such good and wholesome rules and by-laws as they may think necessary and convenient for the maintenance and employment of the inmates of said Almshouse.

P. L. L., (1860) Art. 4, sec. 58. 1862, ch. 279. P. L. L., (1888) Art. 4, sec. 54.

112. Upon complaint made to the Supervisors by the Superintendent of said Almshouse, and due proof thereof, that any pauper in said Almshouse has behaved in a disorderly manner, or has neglected to obey and keep any of the rules and by-laws, the Supervisors may order and direct such moderate and proper correction for any such offence as the nature of the case may require.

## SUPERINTENDENT OF ALMSHOUSE.

P. L. L., (1860) Art. 4, secs. 49, 51. P. L. L., (1888) Art. 4, secs. 46, 47.

**113.** The Supervisors shall meet at the Almshouse on the first Monday of April, yearly, and appoint a Superintendent of said Almshouse, who shall receive a salary of one thousand six hundred dollars per annum, payable monthly. They shall require such Superintendent to enter into bond with sufficient security, payable to the Mayor and City Council of Baltimore, in the penalty of five hundred dollars, for the faithful performance of the duties of his office.

P. L. L., (1860) Art. 4, sec. 52. P. L. L., (1888) Art. 4, sec. 48.

**114.** In addition to such other duties as the Supervisors may prescribe, the Superintendent shall keep a regular list of all poor, beggars, vagrants, vagabonds and offenders who shall be committed to said Almshouse, and also regulate 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 Superintendent, and shall lay the same before the Supervisors annually and whenever required.

## PURVEYOR OF PROVISIONS.

P. L. L., (1860) Art. 4, sec. 46. P. L. L., (1888) Art. 4, sec. 43.

**115.** The Supervisors may appoint a Purveyor of Provisions to said Almshouse, and fix his salary at a sum not to exceed fifteen hundred dollars per annum. It shall be the duty of said Purveyor to provide and furnish provisions to said Almshouse under the directions of said Supervisors, to whom he shall annually return a statement or account of his receipts and expenditures, to be examined and passed at their discretion.

P. L. L., (1860) Art. 4, sec. 47. P. L. L., (1888) Art. 4, sec. 44.

**116.** The Supervisors 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 bonds to be put in suit, and any sum of money recovered in such suits shall be applied to the use of said Almshouse.

**117.** None of the foregoing provisions in sections 104 to 116 inclusive, shall apply to offenders, juvenile or adult.

## VISITORS OF THE JAIL.

1826, ch. 224. 1831, ch. 58. 1868, ch. 3. P. L. L., (1888) Art. 4, sec. 535.  
1914, ch. 343.

**118.** The Visitors of the Jail shall be the second sub-department of Charities and Corrections, and the head of this sub-department shall be a board consisting of nine persons, appointed by the Mayor in the manner prescribed in section 25 of this Article, who shall hold their offices as therein provided. They shall serve without pay. One of their number shall be designated by the Mayor, who shall be President of said Visitors, and the said Visitors shall elect from their number a Secretary. The Visitors to the Jail shall have charge and control, supervision and regulation of the Baltimore City Jail and all reformatory, criminal and penal institutions belonging to the city. The Visitors to the Jail shall have the power to pass rules and regulations for their own government and for the government of the Baltimore City Jail and the aforesaid institutions belonging to the city, not inconsistent with this Article, and shall perform such other duties as may be required of them by ordinances not inconsistent with this Article.

Field v. Malster, 88 Md. 691. Beasley v. Ridout, 94 Md. 675. (This case construes Acts of Assembly relating to Visitors of the Jail.)

P. L. L., (1860) Art. 4, sec. 574. P. L. L., (1888) Art. 4, sec. 541.

**119.** The said Visitors 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.

1831, ch. 58. P. L. L., (1860) Art. 4, sec. 575. P. L. L., (1888)  
Art. 4, sec. 542.

**120.** The said Visitors 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.

1898, ch. 412.

**120a.** Whenever the Board of Visitors of the Baltimore City Jail may deem it necessary, they shall have full power to summon the State Lunacy Commission to examine and pass upon the mental condition of the convicts, and if the convict or convicts so examined be adjudged insane or lunatic by said

commission, or a majority thereof, and removal be deemed advisable, said commission shall make a complaint to the judge of the Criminal Court of the City of Baltimore, who shall have the power to order the removal of such insane or lunatic convict or convicts to the Bay View Asylum for treatment.

P. L. L., (1860) Art. 4, sec. 576. P. L. L., (1888) Art. 4, sec. 543.

**121.** The said Visitors 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 medicine and attendance for such of the prisoners as are sick.

1884, ch. 368. P. L. L., (1888) Art 4, sec. 544.

**122.** All persons confined in Baltimore City Jail, under sentence of the Criminal Court of Baltimore, for offences punishable by confinement therein, or committed by any Judge, Court, Justice of the Peace, or other lawful authority having jurisdiction to commit such person to said jail, either as a punishment for the violation of any law or ordinance, or under or by virtue of any law or ordinance, or for failure to pay any fine or costs imposed upon such person by any such Judge, Court, Justice of the Peace or other lawful authority, shall be kept by the Visitors to the Jail at hard labor in some useful employment. The said Visitors to the Jail 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.

P. L. L., (1860) Art. 4, sec. 578. P. L. L., (1888) Art. 4, sec. 545.

**123.** The said Visitors shall also require all vagrants confined in said jail to work and labor about the premises.

P. L. L., (1860) Art. 4, sec. 579. P. L. L., (1888) Art. 4, sec. 546.

**124.** The said Visitors 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.

Section 1 of the Act of 1906, ch. 71, reads as follows:

"Be it enacted by the General Assembly of Maryland that the Visitors of the Jail in Baltimore City, be and they are hereby unconditionally authorized and empowered to contract, upon such terms as to price or otherwise as they may deem expedient or proper, with any person or

corporation, in their discretion, for the erection at the Baltimore City Jail of a workshop for its uses; provided that the cost of erecting said workshop shall be paid for by the hire to the contractor, as now authorized by law, and as fixed in amount or otherwise by the said visitors, in their discretion, of inmates of said Jail."

P. L. L., (1860) Art. 4, sec. 580. P. L. L., (1888) Art. 4, sec. 547.

**125.** The said Visitors 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.

### WARDEN OF JAIL.

1826, ch. 224. 1831, ch. 58. P. L. L., (1860) Art. 4, sec. 581.  
P. L. L., (1888) Art. 4, sec. 548.

**126.** The said Visitors shall appoint a fit person as Warden of the Baltimore City Jail. They shall allow the said Warden and his assistants and other employees and servants such compensation as in their judgment is proper, not to exceed in the aggregate the amount appropriated by ordinance. The said Visitors shall at their will and pleasure remove the said Warden.

P. L. L., (1860) Art. 4, sec. 581. P. L. L., (1888) Art. 4, sec. 548.

**127.** It shall be the duty of the Warden of the Baltimore City Jail to take charge of the prison and prisoners therein, and exercise, during his continuance in office, the same powers, and be subject to the same forfeitures, and be responsible for escapes in the same manner, and to the same extent, as sheriffs of the respective counties, and he shall perform such other duties as shall be required of him by said Visitors.

1826, ch. 224. 1831, ch. 58. P. L. L., (1860) Art. 4, sec. 583.  
P. L. L., (1888) Art. 4, sec. 550.

**128.** The said Warden, before he enters upon the duties of his office shall give bond to the State with good security 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 Baltimore City Jail, which bond shall be filed with the Comptroller.

1831, ch. 58. P. L. L., (1860) Art. 4, sec. 584. P. L. L., (1888)  
Art. 4, sec. 551.

**129.** The said Warden 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 Baltimore City Jail.

1826, ch. 224. P. L. L., (1860) Art. 4, sec. 585. P. L. L., (1888) Art. 4, sec. 552.

**130.** 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, and shall fix their compensation, not to exceed in the aggregate the amount appropriated by ordinance.

1826, ch. 224. P. L. L., (1860) Art. 4, sec. 586. P. L. L., (1888) Art. 4, sec. 553.

**131.** All commitments of prisoners to the Baltimore City Jail 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.

1826, ch. 224. 1831, ch. 58. P. L. L., (1860) Art. 4, sec. 587. P. L. L., (1888) Art. 4, sec. 554.

**132.** The Warden shall conduct all prisoners in his custody to and from the courts, when the said courts shall direct him to do so.

1831, ch. 58. P. L. L., (1860) Art. 4, sec. 588. P. L. L., (1888) Art. 4, sec. 555.

**133.** The Warden shall account with the Visitors for all sums of money which he may collect from any source connected with the institution.

1831, ch. 58. P. L. L., (1860) Art. 4, sec. 591. P. L. L., (1888) Art. 4, sec. 558.

**134.** The Visitors shall annually, during the month of January, make out and lay before the Mayor and City Council of Baltimore a full statement of all the public money received by them from the City Register or from any other source, and the manner in which it has been expended.

P. L. L., (1860) Art. 4, secs. 592, 593. P. L. L., (1888) Art. 4, secs. 559, 560.

**135.** No spirituous or malt liquors shall be disposed of, sold or given away within said jail, and any employee or servant of said jail disposing of, selling or giving away, or being concerned with others in the disposal, selling or giving away of

any spirituous or malt liquors as aforesaid to any person coming to said jail on a visit, or to any prisoner confined therein, or to any other person, except by order of the attending physician, shall forfeit and pay the sum of one hundred dollars, to be recovered by indictment, one-half to go to the informer, and the other half to be applied to the use of the city.

P. L. L., (1860) Art. 4, secs. 595, 596. P. L. L., (1888) Art. 4, secs. 561, 562.

**136.** If the Warden or his Assistants, or any employee or servant of said jail, shall introduce any such spirituous or malt liquors, or suffer them to be introduced as aforesaid, knowing it to be contrary to law; or shall permit any person (with the exception of the attorney of a person confined in said prison) to enter said jail without license, as herein provided, each and every one of them so offending shall be suspended from his office and be incapable of holding any office or charge within said prison for the space of one year thereafter.

P. L. L., (1860) Art. 4, sec. 594. P. L. L., (1888) Art. 4, sec. 563.

**137.** No person, except the attorney of a prisoner, shall be permitted to visit a prisoner within said jail or lot, unless by special license from the Warden, or some Judge, or other person legally authorized to give the same.

P. L. L., (1860) Art. 4, sec. 598. P. L. L., (1888) Art. 4, secs. 564, 565.

**138.** All persons hereafter sentenced to be imprisoned in said jail for offences by the Criminal Court of Baltimore 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.

## CONVICTS.

1880, ch. 4. P. L. L., (1888) Art. 4, sec. 568.

**139.** All persons who shall hereafter be convicted of any offense punishable by confinement in said Baltimore City Jail, and confined in said jail under a sentence for a longer period than two calendar months, shall each have a deduction from their several terms of sentence of five days for each and every calendar month during which no charge of misconduct shall have been sustained against them, and they shall be discharged at the expiration of their respective terms of sentence, less the time so deducted, and a certificate of the Warden of said Jail of such deduction shall be entered on the warrant of com-

mitment; *provided*, that if, during the term of imprisonment, the prisoner shall commit any act of insubordination or other violation of discipline, the Visitors to the Jail may, at their discretion, reduce and annul entirely such deductions.

P. L. L., (1860) Art. 4, sec. 159. P. L. L., (1888) Art. 4, sec. 569.

140. All persons confined in said jail under the provisions of the preceding section shall be kept separate from such persons as are in confinement for offenses other than those referred to in the preceding section, or who may be awaiting trial.

### VAGRANTS.

1862, ch. 8. P. L. L., (1888) Art. 4, sec. 570.

141. The Warden of the Baltimore City Jail 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 commitments; 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 prohibited from charging costs in the cases above named, unless the parties are recommitted by order of the Judge of said Court.

1880, ch. 51. P. L. L., (1888) Art. 4, sec. 571.

142. When any person arrested in the City of Baltimore shall be held in custody until such person can give security to keep the peace, or shall be committed to jail or the House of Correction in default of such security, such person shall be chargeable with and shall pay all costs prescribed by the laws of this State for such arrest, commitment, or giving security to keep the peace, and in default of the payment thereof shall be committed to jail until such costs and the costs of his release shall be paid, or until thence discharged by due course of law; and said costs shall be accounted for and paid over by said respective Justices of the Peace so sitting at the respective station houses in the manner in which all costs paid to such Justices of the Peace so respectively sitting at such station houses in the



City of Baltimore, are now or may hereafter be required by law to be accounted for and paid over.

1886, ch. 373. P. L. L., (1888) Art. 4, sec. 572.

**143.** Whenever any person has been committed to the Baltimore City Jail on the charge of drunkenness or disorderly conduct, and he is deemed by the physician in charge of said jail a proper subject for the Almshouse, the Visitors to the Jail shall have power to transfer said person to said Almshouse.

1886, ch. 373. P. L. L., (1888) Art. 4, sec. 573.

**144.** Whenever any person has been committed to the Baltimore City Jail on the charge of drunkenness or disorderly conduct who is affected with any form of disease that in the judgment of the physician of said jail would require a longer time than the term of sentence to cure, or in any case where the accommodation, comfort, care and nursing cannot be furnished by the said jail, or in case of any person who may be insane at the time of committal, or become insane during the term for which committed, the said Visitors to the Jail shall have the power to release and send such person to his or her home, or to some infirmary, hospital or to the Almshouse, where provision has been made by the City of Baltimore for the reception of such cases.

M. & C. C. of Baltimore v. Keeley Institute, 81 Md. 106.

#### DEPARTMENT OF REVIEW AND ASSESSMENT.

**145.** There shall be a Department of Review and Assessment of the Mayor and City Council of Baltimore, composed of the Appeal Tax Court and the Commissioners for Opening Streets. The head of this department shall be the Board of Review and Assessment, to consist of the President of the Appeal Tax Court, the President of the Commissioners for Opening Streets, and the Mayor *ex officio*. The President of the said Court shall be the President of the Board of Review and Assessment. This Board shall be for consultation and advice, but it shall have no power to direct or control either sub-department. It shall perform such duties as may be prescribed by ordinances not inconsistent with this Article.

#### APPEAL TAX COURT.

1874, ch. 483. 1888, ch. 98, sec. 22. P. L. L., (1888) Art. 4, Sec. 842.

**146.** The Appeal Tax Court shall be the first sub-depart-

ment of Review and Assessment, and its head shall be a bench composed of three members, appointed by the Mayor in the manner prescribed in section 25 of this Article, and removable as therein provided. One of their number shall be President, and shall be so designated when appointed by the Mayor. Their term of office shall be for three years, one member to retire every year; except that the members of the Court first appointed shall determine by lot their terms of office, so as to provide for the termination of the term of one member each at the end of the first and second years. Each member of said Court shall receive a salary of two thousand dollars per annum, payable monthly. The said Court shall appoint a Clerk, who shall receive a salary of one thousand six hundred dollars per annum, payable monthly, and shall perform such duties as the Court may prescribe. The said Court may also appoint such other employes as the city by ordinance may direct.

Baltimore City v. Johnson, 96 Md. 742. Joesting v. Baltimore City, 97 Md. 596.

1874, ch. 483. 1888, ch. 98, sec. 22. P. L. L., (1888) Art. 4, sec. 842.

147. The said Court shall meet from time to time for the purpose of hearing appeals and making transfers and correcting the accounts of assessable property charged to taxpayers, and the assessment thereof. The said Court may also appoint such number of assessors as they may deem necessary in investigating and ascertaining all omitted and taxable property, and assessing and returning the same to the said Court, not to exceed such number as by ordinance may be authorized.

Robinson v. Baltimore, 93 Md. 208.

The Appeal Tax Court cannot be required to sit as a Court of review. Consol. Gas Co. v. Baltimore, 101 Md. 541.

Many of the provisions of this Article relating to assessments have been embodied from Art. 50, City Code (1893).

1841, ch. 23, sec. 43. 1841, ch. 116. 1847, ch. 266, sec. 16. P. G. L., (1860) Art. 81, sec. 7. 1874, ch. 483, sec. 5. P. G. L., (1888) Art. 81, sec. 6. 1894, ch. 165. P. G. L., (1904) Art. 81, sec. 7.

148. Every assessor provided for in this sub-division of this Article shall annually inform himself, by all lawful means, of all property, real and personal, and stocks or investments in the city, liable to taxation or assessment, and which may have been omitted in the assessment, and all buildings and improvements, and all property created or acquired since the last assessment, and shall value the same at the full cash value thereof, and shall make return thereof to said Court, and for the pur-

poses of this section the said assessors are hereby clothed with the powers of general assessors, and their valuation shall be subject to revision and correction by said Court.

O'Neal v. Va. & Md. Bridge Co., 18 Md. 24. Co. Commr's v. Union Mining Co., 61 Md. 547. Hopkins v. Baker, 78 Md. 363. Hopkins v. Van Wyck, 80 Md. 7. Skinner Dry Dock Co. v. Balto. City, 96 Md. 40. Consol. Gas Co. v. Baltimore City, 101 Md. 541.

The life tenant is responsible for taxes, Stansbury v. Nicholl, Daily Record, Aug. 2, 1901.

1841, ch. 266, sec. 16. P. G. L., (1860) Art. 81, sec. 8. 1874, ch. 483, sec. 6. P. G. L., (1888) Art. 81, sec. 7.

P. G. L., (1904) Art. 81, sec. 8.

149. The assessors shall be allowed such compensation for the performance of their duties as the city may by ordinance direct.

1880, ch. 230. P. L. L., (1888) Art. 4, sec. 843.

150. Before increasing the assessment of any property which has been theretofore assessed, or adding any new property not valued and returned to them by the proper assessor, it shall be the duty of the said Court, as the case may be, to notify the owner of such property by written or printed summons, containing such interrogatories in regard to the property as they may require to be answered on oath, and appointing a certain day for such owner to answer such interrogatories, either orally or in writing, and to make such statement, or present such proof as he may desire in the premises; and such notice shall be served on such owner or left at his place of abode at least five days before the day of hearing appointed in such summons. Such owner may answer the interrogatories contained in such summons, and may appear on such return day and answer the same under oath, orally, before said Court, and may present such testimony as he may desire and said Court may think necessary and proper to be heard. In case such owner, after being summoned, shall fail to answer in writing on oath, or to appear and answer orally such interrogatories, such Court, after such return day has passed, may proceed to re-value and re-assess said property, or add such new property, according to its best judgment and information in the premises; but no such re-valuation and re-assessment shall be made by such Court without giving such notice; *provided*, that nothing in this section shall be construed to apply to the valuation and assessment of new improvements or new property discovered and assessed and returned to the said Court by the proper assessor whose duty it is to assess and return the same.

Co. Comm'rs v. Union Mining Co., 61 Md. 546. Alleghany Co. v. N. Y. Mining Co., 76 Md. 556. Baltimore Co. v. Winand, 77 Md. 524. Hopkins v. Van Wyck, 80 Md. 15, 17. Myers v. Baltimore Co., 83 Md. 393. Balto. C. & A. R. R. Co. v. Wicomico Co., 93 Md. 113. Gittings v. Mayor, 95 Md. 419. Skinner Dry Dock Co. v. Baltimore, 96 Md. 40. Baltimore City v. Poole, 97 Md. 70.

1844, ch. 234, sec. 2. P. G. L., (1860) Art. 81, sec. 98. 1874, ch. 483. P. G. L., (1888) Art. 81, sec. 89. P. L. L., (1888) Art. 4, sec. 486. P. G. L., (1904) Art. 81, sec. 104. 1908, ch. 164.

151. The City Register shall, on the first day of each and every month in which the interest on city stock is payable, make out and deliver to the said court a full and accurate list of the holders of all public stock, the interest on which is payable in said respective month.

Sec. 160 of Art. 81, Public General Laws, Code 1904, as re-enacted by Act 1906, ch. 467, reads as follows:

160. Any corporation having a capital stock divided into shares and owning as an investment of part of its capital any of the stock debt of this State upon which the State Tax has been deducted by the Treasurer, or of the stock debt of the City of Baltimore on which the State Taxes have been paid or are payable by said City, or shares in any bank or other corporation of this State upon which the State and County or City taxes are levied and paid, or are payable by such bank or other corporation, may report the same in detail under the oath of the President, Cashier, Treasurer or other proper officer to the State Tax Commissioner, and the amount of such stock debt or debts, or the assessed value of such capital stock so owned, and upon which such taxes are paid or payable as aforesaid, shall be allowed as a credit in the settlement of the taxes on the shares of capital stock of such corporation so owning the same; and any corporation not having capital stock divided into shares, and owning as an investment of part of its assets any of the stock debt of this State upon which the State tax has been deducted by the Treasurer, or of the stock debt of the City of Baltimore on which the State taxes have been paid or are payable by said City, or shares of the capital stock of any bank or other corporation of this State, upon which the State and County or City taxes are levied and paid, or are payable by such bank or other corporation, may report the same in detail, under the oath of its President, Cashier, Treasurer or other proper officer to the State Tax Commissioner, and the amount of such stock debt or debts, or the assessed value of such shares of capital stock so owned, and upon which such taxes have been paid or are payable as aforesaid, shall be allowed as a credit in the settlement of the taxes on the assets of such corporation so owning the same; but no credit shall be allowed to any such corporations by reason of any investments on which the taxes are not paid or payable as aforesaid, nor by reason of the ownership by said corporation or corporations of the stock debt of the City of Baltimore that shall be hereafter issued under the loans authorized by Chapters 274, 338 and 349 of the Acts of the General Assembly of Maryland for 1904, known as the Annex, Park Extensions and Sewer Loans, respectively, or under any other loans that may be

hereafter authorized by the General Assembly of Maryland, provided, however, that a credit shall be allowed to any such corporation by reason of its ownership of Baltimore City Burnt District Loan Stock, issued under Chapter 468 of the Acts of 1904, the Water Loan issued under Chapter 333 of the Acts 1902, and the Conduit Loan issued under Chapter 246 of the Acts of 1902, whether heretofore or hereafter issued; nor shall such credits be allowed in any case where the officer making such return for such corporation shall fail to state in such return that said investments are owned by the corporation of which he is such officer, and are not held by such corporation as security for any loan, or as a collateral security for any payment, or other purpose.

1844, ch. 234, sec. 3. P. G. L., (1860) Art. 81, sec. 99. 1874, ch. 483.  
P. G. L., (1888) Art. 81, sec. 90. P. L. L., (1888) Art. 4,  
sec. 847. P. G. L., (1904) Art. 81, sec. 105.

**152.** The said Court shall in each year carefully examine the said lists and correct the same by striking therefrom all the holders of said stock who may be exempt from taxation on said stock, and shall, on or before the first day of September, annually deliver one copy of the said list, as corrected by them, to the City Register, and one copy thereof to the State Comptroller, setting forth distinctly in said copies the assessed value of the stock mentioned therein.

1844, ch. 234, sec. 4. P. G. L., (1860) Art. 81, sec. 100. 1874, ch. 483,  
sec. 92. P. G. L., (1888) Art. 81, sec. 91. P. L. L., (1888)  
Art. 4, sec. 848. P. G. L., (1904) Art. 81, sec.  
106. 1908, ch. 164.

**153.** The City Register shall retain from the interest paid on the several city loans to the holders thereof, included in the said corrected list returned to him by the said Court, the State tax imposed for the current year on such loans by the Code of Public General Laws. He shall make such deductions from the installments of interest payable from time to time on said city stock, and he shall, as soon as practicable after the first day of September in each year, pay over such State taxes to the State Comptroller.

The provisions of this section are rendered obsolete by Act of 1914, Chapter 43.

1844, ch. 234, sec. 5. P. G. L., (1860) Art. 81, sec. 101. 1874, ch. 483,  
sec. 93. P. G. L., (1888) Art. 81, sec. 92. P. L. L., (1888)  
Art. 4, sec. 849. P. G. L., (1904) Art. 81, sec.  
107. 1908, ch. 164.

**154.** If the City Register, shall, at any time, fail to make out and deliver to the said Court the list of holders of said stock loans, as herein required, it shall be the duty of the said 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 each and every month in which the interest on said city stock is payable in the year in which such failure, or refusal, shall take place, and on or before the first day of September 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 City Register, and one copy thereof to the State Comptroller; and the City Register shall thereupon pay the tax aforesaid, which he is in section 153 of this Article directed to deduct from the interest payable on said loans, but the City 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 State Comptroller by a certificate to that effect, signed by the said Court, or by other satisfactory evidence was held on the first day of the month in which the interest on said city stock was payable 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.

Under Sections 151 to 154, city liable for State tax on its stock.

Baltimore v. State, 105 Md. 2.

(City stock exempted by Act of 1914, Chapter 43).

1844, ch. 234, sec. 6. P. G. L., (1860) Art. 81, sec. 102. 1874, ch. 483, sec. 94. P. G. L., (1888) Art 81, sec. 93. P. L. L., (1888)

Art. 4, sec. 850. 1892, ch. 567. P. G. L., 1904,

Art. 81, sec. 108.

**155.** Each member of the said Court shall receive fifty dollars, annually, for the services required in the three preceding sections; and the City Register, 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 State Comptroller in pursuance of Article 81, section 108, of the Code of Public General Laws.

1906, ch. 84. P. G. L., (1904) Art. 81, sec. 138.

**155a.** The president or other proper officer of the banks, State and National, and other incorporated institutions in the several counties, the City of Baltimore and other incorporated towns of Maryland, shall annually on or before the first day of March, furnish to the County Commissioners of each County or the Appeal Tax Court of Baltimore City and the City Clerk of each city, town or village incorporated in the State of Maryland, in which any of its stockholders may reside, a list of the said stockholders, so far as their place of residence may be

known to such officer, together with the number of shares of stock held by each. Said list shall show the stockholders of such banks and other incorporated institutions as they stand on the first day of January preceding, together with their residences and the number of shares held by each on said date, and the taxable value of such respective shares of stock, ascertained as hereinafter provided, shall for county and municipal purposes be valued to the owners thereof in the manner hereinafter as of the preceding first day of January of each year, and taxes thereon shall be collected for such banks and other incorporated institutions in the manner hereinafter provided as of said first day of January. In case the president or other proper officer of said bank or other corporation fail or refuse to furnish a statement as herein required to the County Commissioners or Appeal Tax Court or City Clerk aforesaid, on or before the day hereinbefore specified for that purpose, then for each day that shall thereafter elapse until the said statement shall be furnished, the said bank or other corporation shall pay to the County Commissioners, or Mayor and City Council of Baltimore, or other municipal corporation, as the case may be, the sum of one hundred dollars, and for the valuation and effectual collection of taxes assessed on the stock of banks or other incorporated institutions, held by non-residents, the president or other proper officer of the corporation shall annually on or before the first day of March make out and deliver to the County Commissioners of the County or the Appeal Tax Court or City Clerk of the municipal corporation where said corporation is situate, an account of the number of shares of stock in such corporation held by persons not residents of this State as of the first day of January preceding, and the same shall be valued at its actual cash value, to and in the name of such stockholders respectively as of said first day of January preceding; but the tax assessed on such stock shall be levied and collected from said corporation, and may be charged to the account of such non-resident stockholders in the said corporation, and shall be a lien on the stocks therein held by such stockholders, respectively, until paid, and in no case shall the stock of any corporation, in the aggregate, be valued at less than the full value of the real estate and chattels, real or personal, held by or belonging to such corporation in the several counties and City of Baltimore, whether the shares of said stock are quoted on the market or not; in case of failure or refusal to comply with this requirement, the said bank or other incorporated institution shall be liable to the penalty hereinbefore prescribed, and the president and cashier or treasurer of any such bank or other incorporated institution

failing to comply in every respect with the provisions of this section shall be liable to indictment therefor, and on conviction shall be fined not less than five hundred dollars nor more than five thousand dollars, in the discretion of the Court, and shall stand committed until such fine is paid.

1843, ch. 208, sec. 17. 1847, ch. 266, sec. 15. P. G. L., (1860) Art. 81, sec. 18. 1874, ch. 483, sec. 16. P. G. L., (1888) Art. 81, sec. 17. P. G. L., (1904) Art. 81, sec. 15.

**156.** Whenever any person shall make application for an allowance or deduction on account of the sale, transfer, alienation, loss or removal of any property, or the collection or payment of any public or private security for money, the said Court shall interrogate him on oath in reference thereto, and the disposal of the same, and especially inquire of him to whom the same has been sold or transferred, and the amount of the purchase money or the money collected, and how the same has been invested.

*Skinner & Sons Co. v. Baltimore City*, 96 Md. 32.

1847, ch. 266, sec. 15. P. G. L., (1860) Art. 81, sec. 19. 1874, ch. 483, sec. 17. P. G. L., (1888) Art. 81, sec. 18. P. G. L., (1904) Art. 81, sec. 16.

**157.** The said Court shall also interrogate the said person on oath in reference to any acquisitions or investments made by him, and not already assessed, and the amount of all such acquisitions and investments shall be added to his assessable property, and if he refuses to answer, no allowance or deduction shall be made; they shall also have power to summon before them any person whom they may know or be credibly informed has acquired new property, or whose account of taxable property may, in their judgment, require revision and correction, and examine such person on oath touching the same; and any person so summoned, and refusing to appear, and any person refusing to be sworn, or to answer touching said amount or touching his or her property, shall be liable to prosecution therefor, and, upon conviction, shall be fined not exceeding fifty dollars for each offence, to be collected as other fines are collected.

*Co. Comm'rs v. Winand*, 77 Md. 524. *Hopkins v. Van Wyck*, 80 Md. 15, 17. *Skinner & Sons Co. v. Baltimore*, 96 Md. 32.

Appeal Tax Court has power to change classification in annex, when physical condition justifies change.

*Sams v. Fisher*, 106 Md. 155, 162.

But Equity can set aside classification if physical facts do not justify. *City v. Gail*, 106 Md. 684. *Baltimore v. Schaefer*, 107 Md. 40. *Coulston v. City*, 109 Md. 271.



1841, ch. 23, sec. 41. P. G. L., (1860) Art. 81, sec. 20. 1874, ch. 483,  
sec. 18. P. G. L., (1888) Art. 81, sec. 19.  
P. G. L., (1904) Art. 81, sec. 19.

**158.** Any person who shall remove to the City of Baltimore from any County or City in which his property has been assessed, and whose personal property has not been assessed in the City of Baltimore, or any person whose property or some part thereof, has not been assessed, shall, when required by said Court, give to said Court a full and particular account of his personal property in the County or City from which he has removed and of all the personal property in his possession or under his care and management, liable to be assessed, and which before that time shall not have been assessed in the City of Baltimore, and the name of the person to whom it belongs.

Hopkins v. Van Wyck, 80 Md. 15, 17.

1841, ch. 23, secs. 14, 41, 42. P. G. L., (1860) Art. 81, sec. 21. 1874, ch. 483, sec. 19. P. G. L., (1888) Art. 81, sec. 20.  
P. G. L., (1904) Art. 81, sec. 20.

**159.** If any person shall, when required by said Court, after ten days' notice, neglect to render the account required in the last preceding section, he shall be fined a sum not exceeding fifty dollars, to be collected as other fines are collected; and the said Court shall, on its own knowledge and on the best information they can obtain value the property of such person to the utmost sum they believe the same to be worth in cash, and on the return of said valuation they shall certify the said refusal or neglect, and the said Court shall assess such person according to the sum so returned, and the same shall be collected as the assessment.

1843, ch. 208, sec. 18. P. G. L., (1860) Art. 81, sec. 22. 1874, ch. 483,  
sec. 20. P. G. L., (1888) Art. 81, sec. 21. P. G. L.,  
(1904) Art. 81, sec. 21.

**160.** Whenever any person shall apply to the said Court for allowance or reduction on account of the removal of property from the City of Baltimore to a County or City, the said Court shall ascertain of the party applying to what place within the State the property has been removed, and shall inform the proper authorities of the place to which the property is removed of the fact of such removal.

1841, ch. 23, sec. 27. P. G. L., (1860) Art. 81, sec. 24. 1874,  
ch. 483, sec. 22. P. G. L., (1888) Art. 81, sec. 23.  
P. G. L., (1904) Art. 81, sec. 23.

**161.** The said Court shall direct their clerk to enter and

record in a book or books, to be provided for the purpose, an accurate and fair account of all property of every sort within the City of Baltimore, subject to taxation, and the valuation and assessment thereof, and an alphabetical list of the owners thereof, properly arranged, according to the several wards of the City of Baltimore and a correct description and location of the said property so valued and assessed. Any owner of property shall at all times be permitted to inspect the record of his own property contained in said book.

O'Neal v. Virginia & Md. Bridge Co., 18 Md. 24. Tasker v. Garrett Co., 82 Md. 154.

1844, ch. 236, sec. 19. P. G. L., (1860) Art. 81, sec. 25. 1874,  
ch. 483, sec. 23. P. G. L., (1888) Art. 81, sec. 24.  
P. G. L., (1904) Art. 81, sec. 24.

**162.** The Clerk of said Court shall transmit to the State Comptroller annually, within thirty days after the annual levy of taxes for the State, a return of the assessments of property in the City of Baltimore, showing the amount thereof; and for neglecting or refusing to perform this duty the clerk so neglecting or refusing shall be subject to presentment, and upon conviction thereof in the Criminal Court of Baltimore City, to a penalty of one hundred dollars, for the use of the State.

1844, ch. 236, sec. 20. P. G. L., (1860) Art. 81, sec. 26. 1874  
ch. 483, sec. 24. P. G. L., (1888) Art. 81, sec. 25.  
P. G. L., (1904) Art. 81, sec. 25.

**163.** The State's Attorney of the City of Baltimore shall give information of such neglect or refusal to discharge the duties prescribed in the preceding section to the Grand Jury of the city, upon being advised thereof by the State Comptroller.

**164.** Repealed by Act 1900, ch. 4.

1900, ch. 347. 1914, ch. 532.

**164A.** The Appeal Tax Court of Baltimore City shall have the power at any time to value and assess all personal property and to revise such valuations and assessments, and to value and assess and to revise all valuations and assessments of real property in said city, and to lower or increase said assessment of real or personal property, and to take steps for the discovery and assessment of all unassessed property of every kind. And it shall be the duty of said Court, at least once in every five years, to carefully make such general revision of all of the assessable

property in said city. Whenever said Court shall propose to alter or change any assessment, or make any new assessment, they shall, before such assessment is made, give at least ten days' notice thereof, in writing, served upon the owner of the property to be assessed or re-assessed, or upon the person in possession of the property to be assessed, or in whose custody the same may be, or, if it be land and one be in apparent occupancy thereof, then by a notice posted on said land. Said notice shall contain such interrogatories as may be reasonably necessary to enable said Court to correctly assess the property. Said interrogatories shall be answered, signed and sworn to by the owner of the property, or by the authorized agent of such owner, having knowledge of the facts inquired for in said interrogatories. Such affidavit may be made before any Judge of the Appeal Tax Court, or any assessor thereof, who is hereby authorized to take the same, and who shall take the same without charge; or such affidavit may be made before any officer authorized by law to take affidavits. If any person upon whom such interrogatories are served shall neglect or refuse to answer, sign and make oath to the same, personally or by authorized agent as aforesaid, within ten days after service of the same, the Appeal Tax Court shall proceed to assess the property therein referred to, according to law, upon their best information and judgment in the premises, and shall add thereto an additional assessment of 20% of the amount of such assessment so ascertained, as a penalty for such failure or refusal to answer said interrogatories. Said additional assessment may be abated, in whole or in part, by the Appeal Tax Court, at any time before October first in any year, to take effect for the ensuing year, upon the filing of said interrogatories answered, signed and sworn to as above provided, and the Court shall thereupon fix the assessment at such figure as will represent the proper valuation of such property. Nothing herein, or done in pursuance hereof, shall be construed to relieve any escaped or omitted property from being assessed when discovered, as may be provided by law. The said Court, in order to make any valuation, assessment, revaluation or reassessment, shall have power to summon before it any person, and to interrogate him or her in reference to the existence, situation, ownership or value of any property liable to assessment by said Court, or in reference to the taxable residence of any person, and any person so summoned and refusing to appear, and any person refusing to be sworn, or to answer touching said value, revaluation or assessment, or touching his or her property, or touching any other fact relevant to any inquiry

before said Court, shall be liable to prosecution therefor, and, upon conviction, shall be fined not exceeding one hundred dollars, to be collected as other fines are collected.

As to construction of provisions of Sec. 164A, *see*, Gittings v. Baltimore City, 95 Md. 425, 427. Baltimore City v. Johnson, 96 Md. 737. Baltimore City v. Poole, 97 Md. 69. Joesting v. Baltimore City, 97 Md. 596.

As to rule laid down in construing similar provisions, *see*: Hopkins v. Baker, 78 Md. 363. Hopkins v. Van Wyck, 80 Md. 7. Clark Distilling Co. v. Cumberland, 95 Md. 468.

1900, ch. 347.

**164B.** If any clerk, assessor or employee appointed by the Appeal Tax Court shall neglect to perform the duties required of him by law or by said Court, he shall be liable to be discharged by said Court in its discretion; and if any such clerk, assessor or employee shall receive any consideration or payment designed or intended to influence his conduct or act in the performance or omission of his duties as prescribed by law or by said Court as such clerk, assessor or employee, or shall corruptly do or permit to be done or omit to do any act in discharge of his said duties he shall be liable to immediate dismissal by said Appeal Tax Court, and shall be also liable to indictment therefor, and upon conviction shall be fined not exceeding five hundred dollars for each offense and also to imprisonment in jail or penitentiary for not more than one year, in the discretion of the Court.

P. G. L., (1904) Art. 81, sec. 9.

**165.** The Clerks of the several courts in the City of Baltimore shall annually, on or before the first day of October, transmit to the said Court a list of all the alienations of property, chancery sales made by trustees and finally ratified, and of all judgments and decrees recorded in their respective offices or rendered in their respective courts since they last furnished a list of the same, which list shall show the property alienated, and the amount due on the judgments or decrees, so as to enable the said Court to assess the parties to whom the property is conveyed or the money due.

Richardson v. Simpson, 82 Md. 162.

For decisions relating to taxes on property in *custodia legis*, and in cases of sales of property under decrees, *see*, Fulton v. Nicholson, 7 Md. 107. Mayor, etc. v. Sterling, 29 Md. 48. Tuck v. Calvert, 33 Md. 224. Gould v. Baltimore, 58 Md. 52. Hebb v. Moore, 66 Md. 170. Degner v. Baltimore, 74 Md. 144. Casualty Insurance Co's. case, 82 Md. 565. Cherbonnier v. Bussey, 92 Md. 420 *et seq.*

1841, ch. 23, sec. 38. P. G. L., (1860) Art. 81, sec. 13. 1874, ch. 483,  
sec. 11. P. G. L., (1888) Art. 81, sec. 12. P. G. L.,  
(1904) Art. 81, sec. 13.

**166.** No person shall be chargeable with the assessment of property which he may have alienated, but the same shall be chargeable to the alienee; and the said Court shall, from time to time, correct the account of any person who may have parted with the possession of any property, and the same so taken off shall be charged to the person who may have acquired possession of the property, unless the same shall have been removed from the city.

Co. Commrs. v. Clagett, 31 Md. 210. Parlett v. Dugan, 85 Md. 413.

1841, ch. 23, sec. 37. P. G. L., (1860) Art. 81, sec. 14. 1874, ch. 483,  
sec. 12. P. G. L., (1888) Art. 81, sec. 13. P. G. L.,  
(1904) Art. 81, sec. 14. 1914, ch. 532.

**167.** The said Court is directed to alter and correct the account of any person who may have disposed of or acquired any property since the last assessment, or whose property, or any part thereof, may have been omitted, if the report of such disposition, acquisition or omission be supplied by satisfactory evidence; and if real estate or other property shall, from any cause, have increased or decreased in value since the last assessment, the said Court shall correct and alter the assessment of the same, so as to conform to its present value, provided that any party desiring to apply to the Appeal Tax Court for a re-valuation of any real or personal property, shall make such application before the first day of September, in order to be acted on so as to take effect for the ensuing year. The Appeal Tax Court shall not receive or act upon any such application made after the first day of September in any year, so as to affect the assessment for the ensuing year.

Alleghany Co. v. N. Y. Mining Co., 76 Md. 549. Hopkins v. Van Wyck, 80 Md. 7. B. C. & A. Ry. Co. v. Wicomico Co., 93 Md. 113.

1847, ch. 266, sec. 13. P. G. L., (1860) Art. 81, sec. 10. 1874, ch. 483,  
sec. 8. P. G. L., (1888) Art. 81, sec. 9. P. G. L.,  
(1904) Art. 81, sec. 10.

**168.** The Register of Wills of Baltimore City shall annually, on or before the first day of October, return to the said Court a summary account of all property that shall appear by the records of the Orphans' Court of Baltimore City to be in the hands of each executor, administrator, or guardian as such; and all such property, if not before assessed, shall then be assessed, and every executor, administrator or guardian shall be

liable to pay the taxes levied thereon, and shall be allowed therefor by the Orphans' Court in his accounts, and the said Register of Wills, for the duties imposed by this section, shall be allowed such compensation as the said Appeal Tax Court may deem proper. Should the clerk or Register fail to perform the duties imposed by this section, he shall be guilty of a misdemeanor, and shall be liable to indictment, and on conviction shall be fined not exceeding one hundred dollars.

Bonaparte v. State, 63 Md. 473. Hopkins v. Van Wyck, 80 Md. 14. Baldwin v. Washington Co., 85 Md. 156. Baldwin v. State use of Hull, 89 Md. 590. Nicodemus v. Hall, 93 Md. 367.

Liability of executors does not extend to payment of taxes becoming due after the settlement and distribution of the estate, although the annual valuation and assessment upon such property, as well as the levy thereon, may have been made prior to such settlement and distribution of the estate.

Bamberger v. Baltimore, 125 Md.

1847, ch. 266, sec. 14. P. G. L., (1860) Art. 81, sec. 11. 1874, ch. 483, sec. 9. P. G. L., (1888) Art. 81, sec. 10. P. G. L., (1904) Art. 81, sec. 11.

**169.** In all cases where discoveries of assessable property are made by the said Appeal Tax Court, either from the returns of clerks, registers or assessors, or in any other way, the said Court shall assess the same, and add the same to the amount on which taxes are to be levied.

Hopkins v. Van Wyck, 80 Md. 14. Tasker v. Garrett Co., 82 Md. 153. Baldwin v. Wash. Co., 85 Md. 156. Monticello, etc., v. Baltimore City, 90 Md. 429. B., C. & A. R. R. v. Wicomico Co., 93 Md. 123.

1896, ch. 322. P. G. L., (1888) Art. 81, sec. 18a. P. G. L., (1904) Art. 81, sec. 17. 1908, ch. 167.

**170.** Any person or persons, or corporation, assessed for real or personal property in the City of Baltimore and claiming to be aggrieved because of any assessment, or classification made by the said Court, or because of its failure to reduce or abate, modify, change or alter any existing assessment or classification may, by petition, appeal to the Baltimore City Court to review the assessment or classification. The Mayor and City Council of Baltimore may also appeal from any decision of said Court to the Baltimore City Court if it deem the public interests require that the decision of said Court should be reviewed. The petition in such appeal, other than the petition of the city, shall set forth that the assessment or classification is illegal, specifying the grounds of the alleged illegality, or is erroneous by reason of overvaluation, or other error; or that the assess-

ment is unequal in that the said assessment has been made by a higher proportion of valuation than other real or personal property on the same tax roll, by the same officers; and that the petitioner is, or will be injured by such alleged illegality, inequality or erroneous assessment or classification. The petition of the Mayor and City Council of Baltimore shall set forth wherein the decision of said Court is erroneous and such other facts as may be necessary to inform the Baltimore City Court of the claim of the city. A summons shall issue for the respondent or respondents named in the petition of the city returnable on such a day as the Baltimore City Court may appoint for a hearing of the matter averred in such petition. All such appeals shall be taken within thirty days after an assessment, or classification, has been made as aforesaid, or within thirty days after the refusal to reduce or abate, modify, alter or change an existing assessment, or classification, or within thirty days after the action of said Court complained of by the city. On such appeals the Baltimore City Court shall appoint a day for hearing said appeals, which shall not be less than five nor more than thirty days after the expiration of the thirty days' limit for taking appeals as aforesaid; and shall direct the clerk of the said Baltimore City Court to issue a subpoena duces tecum to the judges of said Appeal Tax Court, requiring them to produce and deliver to said Baltimore City Court the record of the proceedings of the said Appeal Tax Court, and all maps, plats, documents and other papers connected with the said record; the said Baltimore City Court shall have full power to hear and fully examine the subject and decide on said appeals, and for that purpose it is hereby authorized and empowered to adjourn from time to time, and may cause all or any of such appeals to be consolidated, or may hear and decide them separately, and may require the said judges of the Appeal Tax Court, their clerks, surveyors or other agents and servants, or any of them, and all such other persons as the Baltimore City Court may deem necessary to attend, and examine them on oath or affirmation; and may permit and require all such explanation, amendments and additions to be made to and of the proceedings as the Court shall deem requisite. The person or the city appealing to the said Baltimore City Court shall have a trial before the Court without the intervention of a jury, and the Court, sitting without a jury, shall hear the case de novo, and shall ascertain and decide on the proper assessment, or classification, of the property for the year involved in the appeal; and neither the action, nor the

record of the proceedings, of the judges of the Appeal Tax Court in the premises shall be held to be, or declared void for any reason whatsoever; provided due notice of the proceedings shall have been given to the parties entitled by said judges of the said Appeal Tax Court; and the said Baltimore City Court shall assess anew, or classify anew, as the case may be, the property forming the subject of the appeal; provided, however, that in the absence of any affirmative evidence to the contrary, the assessment or classification appealed from shall be affirmed. The said City Court shall cause the proceedings and decisions on said appeals to be entered in the book containing the record of proceedings of the said Baltimore City Court, certified by the clerk under the seal of the Baltimore City Court, and the book to be transmitted to the judges of the said Appeal Tax Court, which shall be final and conclusive in every respect, unless an appeal be taken to the Court of Appeals. Such record book or copy of the proceedings therein, or any part of such proceedings, whether in or out of court, certified by the judges of the said Appeal Tax Court, under seal of said city, shall be evidence in any court in this State, and the judge of said Baltimore City Court shall have full power, in his discretion, to require the cost of any appeal or any part thereof to be paid by all or any of the appellants or by the city, as the circumstances of each appeal, in his opinion, shall justify. In no case shall any such appeal stay or suspend the power or duty of the city to levy or collect taxes upon the property involved in said appeal, but such levy and collection shall proceed in all respects as if no appeal had been taken. If a final judgment shall not be given in time to enable the assessors, judges of the Appeal Tax Court, or other officers to make a new or correct statement of the assessment, or classification, for the use of the proper authorities in levying taxes, and if it shall appear from such judgment that said assessment was unequal or said assessment or classification was illegal or erroneous, then there shall be audited, allowed and paid to the petitioner by the Comptroller the amount, with interest thereon from the date of the payment, in excess of what the tax should have been, as determined by said judgment, or order of the Baltimore City Court, and if on appeal by the city, the Baltimore City Court should decide that the valuation and assessment was lower than it should have been, or that the classification was erroneous and at a lower rate than it should have been, or that the property should be assessed or classified, the Baltimore City Court shall ascertain and fix the valuation and assessment, or classification,



of said property, then the Comptroller shall audit and charge the respondent or respondents with the difference in said valuation, assessment or classification, as fixed by the Baltimore City Court and that fixed by the Appeal Tax Court, which amount of difference shall be a lien on the property involved in the proceedings. An appeal may be taken to the Court of Appeals by either the petitioner or petitioners, or the city, within ten days after the rendition of said judgment or order by the Baltimore City Court, and the record shall be immediately transmitted to the Court of Appeals, which Court shall immediately hear and determine the questions involved in said appeal.

Monticello Co. v. Mayor, 90 Md. 416, 432. Fowble v. Kemp, 92 Md. 633. Baltimore City v. Bonaparte, 93 Md. 156. United Rys. & Elec. Co. v. Baltimore City, 93 Md. 631. Baltimore City v. Austin, 95 Md. 90. Gittings v. Baltimore, 95 Md. 419. Baltimore City v. Poole & Son, 97 Md. 69. Joesting v. Baltimore City, 97 Md. 595. Consol. Gas Co. v. Balto. City., 101 Md. 541. Wilkens Co. v. M. & C. C., 103 Md. 293.

*Abatement of Taxes.* The remedy for refusal to abate an assessment of taxes is an appeal to the Baltimore City Court under section 170 of the City Charter and *mandamus* will not lie to compel abatement by the Appeal Tax Court. Hoffman v. Sams, Daily Record, January 10, 1905.

Easements of Public Service Corporations in streets assessable for taxation.

Gas Company v. City, 105 Md., 43.

Taxation—classification and assessment of property—notice—remedial statute liberally construed; “due notice if notice left at house taxed.”

Wannenwetsch v. Baltimore, 115 Md. 446.

Upon appeal to Court of Appeals under this section, only questions of law can be passed on by the Court of Appeals. Hamburger v. City, 106 Md. 481.

But where classification void Equity may enjoin.

City v. Gail, 106 Md. 684. Leser v. Wagner, 119 Md. 671. Balto. v. Schaefer, 107 Md. 40.

On appeal to City Court from assessment made of property for taxation, the presumption is that the assessment is correct, and the duty of opening the case on appeal rests on the property owner. Evidence admissible to prove assessment.

M. & C. C. v. Clarence H. Hurlock, Executor, 113 Md. 674.

#### 1900, ch. 399.

170a. If the Mayor and City Council of Baltimore claim to be aggrieved by any decision of the State Tax Commissioner upon any valuation and assessment, the said Mayor and City Council of Baltimore may appeal from said decision to the Comptroller of the Treasury and State Treasurer. If no such appeal be taken within thirty days from any decision of the Tax Commissioner, the said valuation and assessment shall be final; but if such appeal shall be taken within thirty days

from any decision, there shall be stated in such appeal the reasons and grounds of such appeal; and said Comptroller and Treasurer shall consider the same, and if the Comptroller and Treasurer shall both be of the opinion that such valuation and assessment so made by the State Tax Commissioner is erroneous, and ought to be changed, they shall change the same accordingly, and the valuation and assessment so agreed upon by the Comptroller and Treasurer shall be final; but if either the Comptroller or Treasurer shall agree with the State Tax Commissioner as to the correctness of the valuation so made by him, then such appeal shall be dismissed, and the original valuation shall be and remain as the true valuation.

Monticello v. Baltimore, 90 Md. 416. Fowble v. Kemp, 92 Md. 633.

1914, ch. 532.

171. In the year eighteen hundred and ninety-eight, and in all succeeding years thereafter, the valuation of the property subject to taxation in the City of Baltimore, as it shall appear upon the assessment books of said Court on the first day of October in each and every year, shall be final and conclusive, and constitute the basis upon which taxes for the next ensuing fiscal year shall be assessed and levied; provided that the foregoing provision shall not apply to property in the city liable to taxation, and which may have escaped or which may have been omitted in the regular course of valuation, but such property shall be valued and assessed and the owner or owners thereof charged with current taxes and back taxes, not exceeding four years, justly due thereon, whenever the same may be discovered and placed upon the assessment books; and the annual levy for each and every year shall be deemed and taken to have covered and embraced all property which was not assessed, but which ought to have been assessed, for the year for which any such levy was made. The said Court shall, on the first day of October, or as soon thereafter as practicable, in the year nineteen hundred and fourteen, and in all succeeding years thereafter, make out and deliver to the City Collector a statement showing the valuation and assessment of all the property subject to taxation in said city, as it shall appear upon the assessment books of said Court on said first day of October; such statement shall contain a full list of all the real estate as the same has been valued and assessed by blocks, corresponding so far as may be practicable with the block numbers used in the Record Office of the Superior Court of Baltimore City, with the location and description of such piece or parcel of ground so assessed and valued, and also shall contain an

alphabetical list of all persons to whom personal property has been assessed. The said statement shall be known as the taxable basis for the next ensuing fiscal year, and after the levy of taxes it shall be designated as the tax roll for said year. Further, the said Appeal Tax Court shall submit to the Board of Estimates on the first day of October, or as soon thereafter as practicable, a statement of the total valuation of the respective classes of property as shown on the annual roll submitted by the Appeal Tax Court of Baltimore to the City Collector. The said Court shall perform such other duties as may be prescribed by law or ordinances not inconsistent with this Article.

*Skinner Dry Dock Co. v. Baltimore*, 96 Md. 37-41. *Cochran v. Carstairs*, 95 Md. 509. *Baltimore City v. Jenkins*, 96 Md. 193.

*Shares of Stock* in domestic corporations are not "property" under the terms of section 171 of the City Charter, "which when discovered is to be valued and assessed by the Appeal Tax Court and the owner or owners thereof charged with back and current taxes." *Balto. Chrome Works v. Mayor & C. C. of Balto.*, Daily Record, April 19, 1904.

Compare this section with sec. 5, Art. 50, City Code (1893); *See dicta* in *Hopkins v. Van Wyck*, 80 Md. 15, construing same.

Liability of executors does not extend to payment of taxes becoming due after the settlement and distribution of the estate, although the annual valuation and assessment upon such property, as well as the levy thereon, may have been made prior to such settlement and distribution of the estate.

*Bamberger v. Baltimore*, 125 Md.

## COMMISSIONERS FOR OPENING STREETS.

1912, ch. 32.

**172.** The Commissioners for Opening Streets shall be the second sub-department of review and assessment, and the head of this sub-department shall be a board composed of three persons, appointed by the Mayor in the manner prescribed in section 25 of this Article, and removable as therein provided. One of their number shall be president, and shall be so designated when appointed by the Mayor. Their term of office shall be for three years, one commissioner to retire every year; except that the commissioners first appointed shall determine by lot their terms of office, so as to provide for the termination of the term of one commissioner each at the end of the first and second years. The said commissioners shall receive a salary of one thousand, eight hundred dollars each per annum, payable monthly. The said commissioners shall be charged with the duty of opening, extending, widening, straightening, and if the ordinance so provides, grading or closing any street, lane, alley or part thereof, situated in Baltimore City whenever

the same shall have been directed by ordinance to be done, and shall perform such other duties as the Mayor and City Council of Baltimore, may, by ordinance prescribe. The said Commissioners shall appoint a clerk, who shall be paid a salary of one thousand, five hundred dollars per annum, payable monthly, and shall perform such duties as the Commissioners may prescribe. The said Commissioners may also appoint such other employees as the Mayor and City Council of Baltimore by ordinance may direct, and fix their compensation, not to exceed in the aggregate the amount appropriated by ordinance.

McClellan v. Marine, 98 Md. 53.

Sections 172 to 195, inclusive, under this sub-title, are embodied from the City Code of 1893, Art. 48, secs. 1 to 27, inclusive, with slight modifications.

**173.** The Clerk of said Commissioners shall keep a record of their proceedings in a book provided for the purpose, and in such form as the City Solicitor may prescribe; and the said Clerk shall record in said book all orders made by the Commissioners in regard to the performance of their duties, and make true copies of all notices by them directed to be published, and of the certificate of the publication thereof, and shall perform such other clerical duties as the said Commissioners shall require.

1912, ch. 32.

**174.** 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 from opening, extending, widening, straightening, grading, curbing 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 damages sustained by said opening, extending, widening, straightening or closing, it shall and may be lawful upon a certificate of title from the City Solicitor, for the City Register or City Collector to receive from such person or persons an assignment for the sum or sums so assessed as damages aforesaid.

As to rule in assessing damages and benefits, *see*, M. & C. C. of Balto. v. Smith, 80 Md. 458.

1912, ch. 32.

**175.** Whenever the Mayor and City Council shall hereafter by ordinance direct the Commissioners for Opening Streets to lay out, open, extend, widen, straighten, grade or close up, in whole or in part, any street, square, lane, or alley, within

the bounds of this city, the said Commissioners, having given the notice required by law of their first meeting to execute the same, shall meet at the time and place mentioned in said notice, and from time to time thereafter, as may be necessary, to exercise the powers and perform the duties required of them by said ordinance, and shall ascertain whether any and what amount of value in damages will be caused to the owner of any right or interest in any ground or improvements within or adjacent to the City of Baltimore by such opening, extending, widening, straightening or closing for which, taking into consideration all advantages and disadvantages, such owner ought to be compensated; and the said Commissioners having ascertained the whole amount of damages for which compensation ought to be awarded, as aforesaid, and having added thereto an estimate of the probable amount of expenses which will be incurred by them in the performance of the duties required of them as aforesaid, in which they may include a sum sufficient in their judgment to cover the expenses and contingencies of litigation, and administration expenses, 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 provided for in the general levy, or out of funds derived from loans, if properly applicable thereto.

Alexander v. Mayor, 5 Gill 383. Moale v. Mayor, 5 Md. 314. Hawley v. Mayor, 33 Md. 270. Page v. Mayor, 34 Md. 558. N. C. Ry. Co. v. Mayor, 46 Md. 428. Brooks v. Mayor, 48 Md. 265. Central Savings Bank v. Baltimore, 71 Md. 520-522. Baltimore v. Rice, 73 Md. 307. Pitts v. Baltimore, 73 Md. 338. Friedenwald v. Baltimore, 74 Md. 116. Burke v. Baltimore, 77 Md. 469. M. & C. C. of Baltimore v. Smith, 80 Md. 458. Shanfelter v. M. & C. C. of Baltimore, 80 Md. 491. Gluck v. M. & C. C. of Baltimore, 81 Md. 315. Baltimore City v. Fear, 82 Md. 254. Baltimore v. Coates, 85 Md. 531. Gardiner v. Baltimore City, 96 Md. 361. B. & O. R. R. Co. v. Baltimore City, 98 Md. 535.

Damages from change of grade may be considered when part of lot is being taken.

Baltimore v. Garrett, 120 Md. 608.

Destruction of access amounts to a taking.

Walters v. B. & O., 120 Md. 644.

But merely making the access inconvenient does not amount to a taking.

B. & O. v. Kane, 124 Md. 231. B. & O. v. Kahl, 124 Md. 299. Baltimore v. Bregenzer, 125 Md. 78.

Rule as to damages and benefits.

Baltimore v. Megary, 122 Md. 20. (See Section 175A).

City not liable for consequential damages to property not abutting on the part of the street closed. Certain rules for determining damages.

Ger. Luth. Church v. Baltimore, 123 Md. 142.

The words "such owner ought to be compensated" construed to mean "such as he ought to be compensated for under the established rules of law and practice."

Ger. Luth. Church v. Baltimore, 123 Md. 149.

When land is condemned for the bed of a public street, the grade thereof should be first established.

Baltimore v. Johnson, 123 Md. 320.

Benefits cannot lawfully be assessed against abutting property until the grade of the proposed street has been first established.

Patterson v. Baltimore, 124 Md. 153.

The rule that damages are not ordinarily recoverable for injury to adjacent lands caused by a lawful change in the grade of a public highway is confined to cases in which no part of the abutting property is taken for that purpose. Where the grade is established for the first time on opening the street, the cost and expense of making the abutting land conform to the use of the street should be considered in determining the extent that such abutting lands are benefited by the opening.

Baltimore v. Johnson, 123 Md. 320.

The measure of damages is the market value of the land actually to be taken, and a due allowance of damages for injury to the remaining land.

Patterson v. Baltimore, 124 Md. 153.

In determining whether property will be benefited by a street which is to be opened, account must be had of the cost of putting the property in condition to render it useful after the street is actually opened.

P. B. & W. Railroad v. M. & C. C. of Balto., 124 Md. 635. *See also*, Balto. v. Canton Co., 124 Md. 620.

The City has no power to assess benefits which materially amount to more than the aggregate of damages and expenses. The Commissioners for Opening Streets may make a proportionate reduction, or the City Court can do so on appeal.

Maryland Trust Co. v. Baltimore, 125 Md. 40.

Mere inconvenience of access, or mere diminution of light and air to property does not constitute a "taking" within the meaning of the Constitution. Such injury to come within the constitutional provision must be such as to amount to their substantial destruction.

Baltimore v. Bregenzer, 125 Md. 78.

Condemnation of Land for Water Supply.—Adaptability of Land for Reservoir Purposes.—Just Compensation Includes the Value of the Ground and Due Allowance for Consequential Damages.—The Market Value of Land is to be Estimated in Reference to the Uses and Purposes to which it is Adapted.

Brack v. Baltimore, 125 Md. —.

1914, ch. 125.

175A. In any ordinance providing for opening, widening, extending, straightening or closing any public highway, the Mayor and City Council may provide that the Commissioners

for Opening Streets shall assess upon the property benefited thereby the entire cost of such opening, widening, extending, straightening or closing, including the damages paid for any property taken therefor and the expenses of the said Commissioners and Court expenses, if any; the property so benefited may be specified in the ordinance or left to be determined by the Commissioners. In the event of the passage of such ordinance, the Commissioners for Opening Streets in carrying out the same shall apportion the entire expense of such opening, widening, extending, straightening or closing among the various properties benefited thereby. Nothing herein shall prevent any property owner from showing on appeal the amount he is actually benefited.

1914, ch. 125.

**175B.** The first meeting of the Commissioners to execute any ordinance to open, extend, widen, straighten or close, in whole or in part, any street, square, lane or alley shall be held within four months after the passage of this Act, as to all such ordinances heretofore passed and remaining wholly unexecuted, and as to any ordinance hereafter passed within three months after the passage of such ordinance, unless within that time an ordinance shall be introduced to repeal the same. It shall be the duty of said Commissioners to proceed diligently thereafter in the further execution of such ordinance. On or about the first of January, in every year, the said Commissioners shall make a report to the Mayor, and transmit a copy thereof to the City Council, showing the status of their proceedings under every such ordinance which shall have been passed and shall not have been fully executed. Instead of waiting until the benefits are collected, before paying the damages and proceeding with said opening, extending, widening, straightening or closing, the Mayor and City Council of Baltimore may, in its discretion, in the annual Ordinance of Estimates, set aside a sum from the general levy or from any other funds properly applicable thereto, to be used, in the discretion of the said Commissioners, with the approval of the Board of Estimates, in paying the damages awarded in any such proceeding in advance of the collection of the benefits assessed in said proceeding. In the event of such advance payments, the benefits when collected shall be credited to the fund from which such payments shall have been made. No such advance payment shall be made until after the expiration of the time for taking appeals from the actions of the said Com-

missioners, and the final termination of any appeal or other proceeding in which the validity of the ordinance, or of the entire proceedings thereunder, shall be assailed.

1914, ch. 125.

175C. Upon any appeal from the action of the Commissioners for Opening Streets in awarding damages or assessing benefits in the matter of opening, widening, extending, straightening or closing any public highway, the return of the Commissioners for Opening Streets shall be prima facie evidence of the correctness of the amounts of damages awarded and benefits assessed, and the burden of proof shall be upon the party asserting that any such award or assessment ought to be less or more than the amount so fixed by the Commissioners for Opening Streets; this provision, so far as it relates to the burden of proof, shall not apply to an appeal from benefits where no question of damages is involved.

Act 1898, ch. 123. 1900, ch. 109.

176. In every case where it shall be necessary in order to effect the object proposed under any of the ordinances providing for the laying out, opening, widening or straightening in whole or in part any street, square, lane or alley, that a portion only of a lot or of a lot and improvements shall be taken and used or destroyed, and the owner or owners thereof shall claim to be compensated for the whole, the said Commissioners in such cases may, if they deem it best and not otherwise, accept a surrender in writing of the whole of said lot and improvements, or the whole of said improvements, from said owner or owners, in which event the said Commissioners shall ascertain the full value thereof, as if the whole lot or lots and improvement or improvements, as the case may be, 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 said owner or owners before any part thereof shall be destroyed, removed or used, unless such owner or owners shall assent thereto in writing, as now provided for by law; 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 by public auction to the highest bidder the materials of any house or houses which it shall be necessary to remove, in whole or in part, and also the residue of any lot of which a part shall be taken and used to effect the object confided to the Commissioners, and which residue shall have



been, with the consent of the Commissioners aforesaid, surrendered by the owners thereof as aforesaid; the purchase money to be paid when full possession shall be given of the property or material so sold, and the said Commissioners or a majority of them on receiving the purchase money aforesaid, and not before, shall by a good and sufficient deed convey the lot or lots of ground by them so sold to the purchaser; but no such sales shall be made until after the Commissioners have assessed the entire amount of damages and expenses as are now directed to be assessed by existing ordinances relating to the condemnation of streets, nor until all damages for taking said property shall have been paid or tendered to the proper party or parties or invested or paid into Court as by law required, nor until the said Commissioners are ready and able to give possession to the said purchaser or purchasers of property and materials aforesaid, and the said Commissioners are duly empowered to take and receive a good and sufficient bond from the purchaser or purchasers aforesaid, with a penalty to the Mayor and City Council of Baltimore, conditioned that the purchase money be duly paid at such time as the said Commissioners shall demand the same, and conditioned further that said purchaser or purchasers shall remove within sixty days after notice from the said Commissioners, 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 not complying with the terms of said sale, the Commissioners shall re-sell the said lot or lots, and improvement or improvements, as the case may be, at the risk of the former purchaser, or purchasers, giving not less than five days' notice of said re-sale in two of the daily newspapers of the city aforesaid; provided, however, that where, in the judgment of said Commissioners, a part only of the whole of a lot or a part of the whole of the improvements of any lot can be taken without destroying the whole of said lot or said improvements, for the purpose for which lot or improvements are used, or for building purposes, the said Commissioners shall only condemn such part of said whole lot or improvements as is necessary for the proposed object, and shall award to the owner or owners of the part of the lot or improvements so taken such damages and assess upon the remainder thereof such benefits as in their judgment shall be right and proper; and provided, further, that in all cases where there are sheds or other obstructions lying and being in beds of streets, lanes, roads or alleys, in process of opening or widening, where the same will not, in the judgment

of the Commissioners for Opening Streets, sell by public auction for the amount of the expenses of said sale, then the said Commissioners for Opening Streets may, and they are hereby authorized, to sell the same at private sale.

*M. & C. C. of Baltimore v. Merryman*, 23 Md. 449. *Mayor v. Clunet*, 23 Md. 464. *Norris v. Balto.*, 44 Md. 603. *Bernei v. Mayor*, 56 Md. 351.

As to right of the city to institute condemnation proceedings before street grades are established, *see*, *Balto. Belt R. R. Co. v. Turner*, *Daily Record*, January 12, 1893.

As to rule for valuation of property in awards in condemnation proceedings, *see*, *Park Board v. White*, *Daily Record*, May 25, 1893.

The inchoate right of dower in fee simple property to be considered in condemning property. *B. & O. R. R. Co. v. Textor*, *Daily Record*, December 25, 1893.

1914, ch. 125.

176A. In any case where a part of a lot, or part of a lot and improvements is taken for opening, widening, extending, straightening or closing a public highway, the Commissioners for Opening Streets in making their award, and in the event of an appeal, the Court or Jury in making its or their award shall not award damages and assess benefits separately, but shall ascertain and find separately: First—the present value of the entire lot, or the entire lot and improvements of which a part is to be taken, as if the proposed opening, widening, extending, straightening or closing were not to be made; and secondly—what will be the value of the portion of the lot or of the lot and improvements which will remain after the opening, widening, extending, straightening or closing of said highway shall have been made, and the grading thereof shall have been done. If the value so found of the whole, exceeds the value so found of the portion which will remain, the owner of said lot, or of said lot and improvements shall be allowed the difference as net damages. If the value so found of the part which will remain shall exceed the value so found of the whole, then the owner of the said lot, or said lot and improvements shall be charged the difference as net benefits, but nothing herein shall prevent the surrender of the whole lot, as provided in section 176.

1912, ch. 32.

177. As soon as the Commissioners aforesaid shall have completed the valuation of damages to be ascertained by them as directed by this Article, they shall cause a statement thereof to be made out for the inspection of all persons desiring information of its contents, and such statement, together with an explanatory map or maps, shall contain a description of each

separate lot or parcel of ground deemed to have sustained damages, its dimensions, the name of the street, lane or alley on which it bounds, the names of all persons supposed to have any estate or interest in it, and the amount of damages as valued by the Commissioners; and if there be any house or other improvements on it, necessary to be removed, in whole or in part, such description thereof as the Commissioners shall deem necessary; 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 may be supposed to have any estate or interest therein, and the amount assessed thereon for benefits; and the said Commissioners shall cause a notice to be published for four successive days in two daily newspapers of the city stating the extent of the ground covered by the assessment, and that such statement and maps are ready for the inspection of all persons interested therein and that the Commissioners will meet at their office on a day to be named in said notice, which shall be not less than five nor more than ten days after the first publication of such notice, for the purpose of reviewing any of the matters contained in such statement to which any person claiming to be interested shall make objection; and the Commissioners shall meet at the time and place so appointed, and shall hear and consider all such representations or 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 as corrected to be recorded in their book of proceedings, and certified under the hands and seals of said Commissioners and their clerk, and notify all persons interested by an advertisement, to be inserted once a week for four successive weeks, in two of the daily newspapers of the city that the said assessments have been completed, and that the parties affected thereby are entitled to appeal therefrom by

petition in writing to the Baltimore City Court within thirty days after the first publication of said notice.

Central Savings Bank v. Baltimore, 71 Md. 520. M. & C. C. of Baltimore v. Smith, 80 Md. 467. Zion Church v. Baltimore, 71 Md. 524.

1914, ch. 494.

177A. In any ordinance for opening, extending, widening, straightening, closing or grading any street, lane or alley in the City of Baltimore, the Mayor and City Council of Baltimore may provide that the assessments of benefits may be made payable in annual installments, not exceeding five, with interest at six per cent. on the deferred installments from the time such proceedings are concluded. If any such ordinance does not provide otherwise as to the time of payment of benefits, then all benefits assessed thereunder shall be payable, at the option of the person assessed, either at once or in five equal installments, one of which shall be due when the proceedings under said ordinance are concluded and the other installments shall be due and payable, respectively, one, two, three and four years thereafter, with interest on each installment from the date when the proceedings were finally concluded; provided, however, that where the same party is assessed in any such proceedings for benefits and also awarded damages, the damages shall be deducted from the benefits to the extent of the damages, and the provision of this section as to paying the benefits in installments shall apply only to the excess of the benefits over the damages. The Commissioners, in their final return, shall state whether or not benefits are to be payable in installments, and if so in what installments.

1912, ch. 32.

178. It shall be the duty of the Clerk of the Commissioners for Opening Streets to serve written or printed notice upon each and every party or parties assessed for damages, caused by the condemnation and opening of any public highway; provided, however, that the service of such notice shall not be so construed as to be one of the pre-requisites to the condemnation and opening of any street under any ordinance heretofore passed, or hereafter to be passed.

1912, ch. 32.

179. The Mayor and City Council of Baltimore or 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 first publication of the notice provided in section 177, appeal by petition, in writing, to the Baltimore City Court, praying the said Court to review the same, and on any such appeal the Court shall appoint a day for hearing said appeal, which shall not be less than five or more than thirty days after expiration of the thirty days limited for taking appeals as aforesaid, and shall direct the clerk of the said Court to issue a subpoena duces tecum to the clerk of the Commissioners for Opening Streets, requiring him to produce and deliver to said Court the record of the proceedings of the said Commissioners in the case, and all maps, plats, documents and papers connected with such record, and the City Court shall have full power to hear and fully examine the subject, and decide on the said appeal, and for that purpose is hereby authorized and empowered to adjourn from time to time, and may cause all such appeals to be consolidated, or may hear and decide them separately, and may require the said Commissioners, their clerk, surveyor, or other agents and servants, or any of them, and all such other persons as the Court shall deem necessary, to attend, and examine them on oath or affirmation, and may permit and require all such explanations, amendments and additions to be made to and of the said record of the proceedings as the said Court shall deem requisite; and the persons appealing to the Baltimore City Court, as aforesaid, shall be secured in the right of a jury trial, and the said Court shall direct the Sheriff of Baltimore City to summon twelve or more persons qualified to be jurors, and shall impanel 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 said Commissioners, 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 said Commissioners under their hands, 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 such appeal, in his opinion, shall justify. Upon every appeal to the Baltimore City Court from any action of the Commissioners for Opening Streets both the damages and benefits assessed by the Commissioners to the appellant shall be open for review and correction by the said City Court.

Trustees v. Mayor of Baltimore, 2 Md. Ch. 78. Alexander v. Mayor, 5 Gill, 383. Meth. Prot. Church v. Mayor, 6 Gill, 391. Page v. Mayor, 34 Md. 558. Hazelhurst v. Baltimore, 37 Md. 200. Norris v. Mayor, 44 Md. 598. Brooks v. Mayor of Baltimore, 48 Md. 265. Friedenwald v. Shipley, 74 Md. 116. Farrel v. Baltimore, 75 Md. 493. Baltimore v. Coates, 85 Md. 531. Baltimore City v. Bonaparte, 93 Md. 161.

The right of appeal is given by the above section to the Baltimore City Court. A court of equity has no jurisdiction to enjoin the condemnation proceedings in the Baltimore City Court on the ground that the condemnation is undertaken before the establishment of the grade of the street. This question is within the jurisdiction of the Baltimore City Court.

Baltimore v. Johnson, 123 Md. 321.

As to effect of inspection by jury of premises, *see*,

Patterson v. Baltimore, 124 Md. 153.

On appeal the Street Commissioners, clerks and other agents are competent witnesses, and may be summoned and examined as to the principles upon which their awards and assessments were made.

Patterson v. Baltimore, 124 Md. 153.

#### 1912, ch. 32.

**180.** Whenever any ordinance passed by the Mayor and City Council of Baltimore, providing for the condemnation and opening, extending, widening, grading or closing of any street, lane or alley, in said city, shall be set aside, or declared null and void by a Court of competent jurisdiction, to wit: The Baltimore City Court or the Court of Appeals, in the event of an appeal to that tribunal, or the same shall be repealed by the city, it shall be the duty of the Comptroller immediately thereafter to draw his warrant on the City Register in favor of any and all persons or their legal representatives, who may have paid into the city treasury any sum or sums of money on account thereof; which shall be forthwith paid out of any sums in the treasury not otherwise appropriated. The Comptroller shall

likewise draw his warrant on the City Register for the payment of all expenses which may have been incurred by virtue of any such ordinance in carrying out the provisions thereof, for which the city may be liable under existing ordinances.

1912, ch. 32. 1914, ch. 494.

181. If no appeal shall have been prayed, then, within ten days after the time hereinbefore limited therefor, or after the return of the decision upon any appeal shall have been made to the said Commissioners, their return shall be transferred to the City Collector, who shall proceed forthwith to notify the parties assessed for benefits by means of bills specifying the several sums so assessed and the installments thereof due and payable, and warning them that if the same be not paid within two 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 said unpaid sum or sums of money shall have been assessed, in the manner and after having given the notice directed by this Article. Thereafter, as each installment becomes due, the Collector shall give the same notice; if any installment be not paid, and the Collector shall proceed to sell, under section 182 of this Article, the right of the party assessed, to pay the remainder of said assessment in installments, shall be forfeited, and the Collector shall collect from the proceeds of said sale the entire amount of the assessment not theretofore paid, with interest at six per cent. to the date of such collection.

State *ex rel* Henderson v. Taylor, 59 Md. 338. See, decision of Brown C. J. City Court *in re* Webster v. Mayor, October 16, 1874.

1912, ch. 32.

182. If the sums assessed upon the property specified shall not be paid within the time above limited, the City Collector is hereby directed to sell the property, or any part thereof, on which such assessment has been laid, giving thirty days' notice of said sale in two of the daily newspapers published in the City of Baltimore, the first insertion of said notice to be made in said newspapers promptly after the expiration of the time limited in this article for the payment of said benefits; and the moneys so collected by the City Collector shall be paid over by him to the city as other moneys are directed to be paid over.

M. & C. C. of Baltimore v. Grand Lodge, 44 Md. 437. Zion Church v. Mayor, 71 Md. 524. P. W. & B. R. R. Co. v. Shipley, 72 Md. 88.

1912, ch. 32.

183. 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, grading 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 City 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.

**184.** The City 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 city, which 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.

Carter v. Woolfork, 71 Md. 283.

**185.** 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 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 City Register's certificate, under the corporate seal of the city, shall be competent proof.

Gould v. Mayor, 59 Md. 378. Central Savings Bank v. Baltimore, 71 Md. 517. Zion Church v. Baltimore City, 71 Md. 524.

**186.** 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 City Register, 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 this Article.

State *ex rel.* Henderson v. Taylor, 59 Md. 338.

187. 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 and have all the powers as the other Commissioners who are appointed by the Mayor.

188. 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.

Mayor, etc. v. Rice, 73 Md. 307. Gluck v. Mayor, 81 Md. 315.

1912, ch. 32.

189. 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 completed, it shall be the duty of said Commissioners to cause the same to be removed and to draw on the Register for the expense so incurred, which shall be paid by him, and the Mayor shall forthwith cause a suit for the recovery of said expenses to be instituted against the person or persons by whose default the said obstruction has been suffered to remain, and the same, when recovered, shall be paid to the Register for the use of the city.

190. Repealed by Act of 1912, ch. 32.

1912, ch. 32.

191. When the proceedings of the Commissioners for Open-

ing Streets in any case are transferred to the City Collector, the City Register is authorized and required to pay all the expenses incurred by the Commissioners under the said proceedings. But such expenses shall not remain unpaid more than six months after the completion of any services performed under said ordinance; and the Comptroller and Register are directed to pay, within six months after the services have been completed, any such expenses upon presentation of the proper vouchers or certificates from the Commissioners for Opening Streets.

192. Repealed by Act of 1912, ch. 32.

193. Whenever the owner or owners of the bed of any of the streets, lanes or alleys of the city, as laid out on Poppleton's plat, or on such plat as the city may adopt, for the territory annexed under the Act of 1888, Chapter 98, shall offer to convey the same to the city, it shall be the duty of the Mayor to obtain the opinion of the City Solicitor in relation to the title to the property and the legality of the deed or deeds, and, if in the opinion of the Mayor, it will be right and proper, and the public good will result therefrom, he is hereby authorized to receive, in the name of the Mayor and City Council of Baltimore, any deed or deeds so offered to the city; provided, that no deed shall be for less than one whole square, and that the city shall not incur any expense in receiving the same; and that a plat setting forth the location, together with the surrounding property, to the extent of two hundred feet, shall accompany said deed.

194. Whenever any street, lane or alley, or part thereof, shall be conveyed to the city, as provided in the preceding section, the same shall be a public highway, subject to all ordinances and resolutions relating to streets, lanes and alleys in the City of Baltimore.

195. 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.

1908, ch. 150.

195a. In any and all cases where a street, lane or alley, or part thereof, situated in the City of Baltimore, has been opened,

widened, straightened or closed by the Mayor and City Council of Baltimore, or by any Commissioner or Commissioners, or other person or persons, acting either under the provisions of an Act of the General Assembly of Maryland, or of an ordinance of the Mayor and City Council of Baltimore, or both, whereby authority was granted to assess the whole or any portion of the costs of such improvement upon property benefited thereby, and such assessments, or any part thereof remain unpaid, it shall be lawful for the Mayor and City Council of Baltimore to provide by ordinance for levy and collection, in such manner as it may deem proper, of a tax to the extent of such special benefit upon all the property, which the said Mayor and City Council of Baltimore, or the said Commissioner or Commissioners, or other person or persons above mentioned, have designated in their return, as property benefited by such improvement, and liable to assessment therefor; provided, that no property, upon which the assessment originally made for its share of the cost of such improvement shall have been paid, shall be again assessed, and that reasonable notice and an opportunity to be heard shall be given to all persons interested before final ascertainment of the amount of tax to be paid by any such property, and the said city shall provide for appeals to the Baltimore City Court by any person or persons interested, including the city itself, from the decision of the Commissioners for Opening Streets, or any Commissioner or Commissioners, or other persons appointed to determine the amount or amounts of such special taxes or assessments, and in the trial of such appeals the practice shall conform as near as may be to the practice in the trial of street appeals, including the right of appeal to the Court of Appeals.

MUNICIPAL OFFICERS  
NOT INCLUDED IN ANY DEPARTMENT.

CITY LIBRARIAN.

196. There shall be an official of the Mayor and City Council of Baltimore, to be known as the City Librarian. He shall be appointed by the Mayor in the manner prescribed in section 25 of this Article and hold his office as therein provided. The said Librarian shall, under the supervision and direction of the City Register, take under his charge and keeping all the books and documents of every description, and the archives, records, papers and proceedings of the Mayor and City Council of Baltimore, except as is otherwise herein provided, now in the

possession of other municipal officers, entrusted with them by the city, or which may hereafter come into the possession of the city, and also all the ordinances, resolutions and proceedings of the City Council after each and every session thereof; and he shall arrange and classify, so as to be easily found when needed, all the books, documents, records, papers, ordinances and resolutions, and proceedings hereby placed and hereafter to come under his charge and keeping; and he shall furthermore carefully collect and arrange and safely keep a complete series of ordinances and resolutions and proceedings of the Mayor and City Council of Baltimore, and all other books, papers and memorials relating to Baltimore, from its beginning as a town to the present time, and this shall continue to be one of his regular duties, and he shall not permit any book or books, or documents of said series to be taken or removed by any one from the City Library, and he shall permit no other book, document, record or paper of any sort to be taken from the City Library, except by city officers, and then only on a written receipt from such city officer or officers for the same, which receipt shall be written in a book to be kept for that purpose, and shall be duly cancelled on the return of the book, documents, records or papers so borrowed; and he shall see that no books, documents, records or papers of any sort be lost or mislaid by said city officers; he shall also carefully prepare and keep an index for that purpose of all the books, documents, records and papers of said library. Room shall be provided in the City Hall, and properly furnished for the reception and custody of said library. The salary of the City Librarian shall be one thousand five hundred dollars per annum, payable monthly; and he shall give a good and sufficient bond, to be approved as authorized by this Article, in the sum of five thousand dollars, for the faithful performance of his duties in the premises.

The provisions of the Charter in relation to the City Librarian and his duties were largely embodied from Art. xxxii of the Baltimore City Local Code (1893).

1906, ch. 111.

197. Each of the departments, sub-departments, municipal officers not embraced in a department and special commissions or boards of the Mayor and City Council of Baltimore shall, on or before the first day of December in every year, furnish to the City Librarian a schedule of all stationery and printed matter, which may be required for the use of such departments, sub-departments, municipal officers and commissions or boards for the year commencing on the first day of January thereafter. It

shall be the duty of the City Librarian, twenty days prior to the first day of January in each year, to advertise for proposals for furnishing all such stationery and printed matter as may be required by the respective departments, sub-departments, municipal officers and commissions or boards of the city, for the ensuing fiscal year, subject to the provisions of sections 14 and 15 of this Article. All contracts which may be awarded in pursuance of the provisions of this section shall contain a clause stipulating that any stationery or printed matter which may be required for the use of any department, municipal officers and commissions or boards aforesaid of the city, over and above the quantity specially designated in said contracts, shall be furnished by the contractors at the same rate charged for articles which are specially mentioned in said contracts, and if any supplies are required which are not mentioned in said contract they shall be furnished at the lowest market rates. It shall be the further duty of the City Librarian to furnish to each of the departments of the city, sub-departments, municipal officers not embraced in a department and special commissions or boards, from time to time, upon the requisition of the heads of said departments, sub-departments, municipal officers and commissions or boards, the stationery and printed matter which may be necessary for the use of said departments, sub-departments, municipal officers not embraced in a department and special commissions or boards and to keep an accurate account of all supplies which may be furnished; and he shall annually report to the City Council of Baltimore the quantity of stationery and printed matter which he shall have furnished to the respective departments, sub-departments, municipal officers and commissions or boards during the preceding fiscal year and the expense of the same.

As to powers of Mayor and City Council of Baltimore in relation to contracts for stationery prior to Act 1906, ch. 111, *see*, Baltimore v. Weatherby, 52 Md. 442, and cases cited under sections 14 and 15 of the Charter, *ante*, pages 57, 58, 59.

**198.** The City Librarian is hereby authorized and directed to appoint two assistants, to be known as First Assistant Librarian and Second Assistant Librarian, who shall perform such duties as the Librarian shall from time to time prescribe and direct, and for whose acts the Librarian shall be held responsible. The First Assistant shall give such bond as provided by ordinance and approved by the Mayor. In the event of the necessary absence of the Librarian, from sickness or other cause, the First Assistant, with the approbation of the Mayor, shall

have full power and authority to perform all the duties of the Librarian. The salary of the First Assistant Librarian shall be nine hundred dollars per annum, payable monthly, and the salary of the Second Assistant shall be seven hundred and fifty dollars per annum, payable monthly.

199. There shall be opened, under the direction of the City Librarian, a set of books in which shall be entered all requisitions made upon the City Librarian from the different departments, sub-departments, municipal officers and commissions or boards of the Mayor and City Council of Baltimore, from time to time, and each department, sub-department, municipal officer and commission or board shall be charged with all books, stationery and printed matter it may receive from said Librarian; there shall be kept a record of all bids received for books, stationery and printed matter and of the acceptance or rejection thereof. The City Librarian shall permit no bid once filed in his office to be withdrawn therefrom. There shall be copied and filed away all contracts made or entered into between bidders and the City Librarian; and there shall be annually prepared a general statement of all the transactions of the City Librarian's office, and presented to the City Council.

200. The City Library shall be kept open daily from 9 A. M. to 4 P. M., and during the sessions of the City Council and at such other times as may be necessary or may be prescribed by ordinance, with the Librarian or his Assistants in attendance.

#### COMMISSION ON CITY PLAN.

1910, ch. 114.

200A. There shall be a Commission on City Plan, to consist of the Mayor of the City of Baltimore and eight other members who shall be appointed by the Mayor in the manner prescribed in section 25 of this Article, who shall hold their offices as in said section provided, and shall serve without pay; one of the said Commissioners shall be president of said Commission, and shall be so designated by the Mayor; the said Commission may elect a secretary, who shall be paid such salary as may be provided for by ordinance and who shall perform such duties as may be from time to time prescribed by said Commission. The said Commission shall investigate all plans proposed for the construction or extension of public highways in the City of Baltimore and the establishment of a civic center or other public improvements in connection therewith, and shall report the

results of such investigations from time to time to the Mayor and City Council, and shall perform such other duties and exercise such other powers as may be delegated to it or as may be prescribed by ordinance not inconsistent with this Article.

### ART COMMISSION.

**201.** There shall be an Art Commission, to consist of the Mayor of the City of Baltimore and seven others, to be named by the following institutions, and appointed by the Mayor in the manner prescribed by section 25 of this Article, and hold their offices as therein provided: One shall be named by the Maryland Historical Society, one by the Johns Hopkins University, one by the Peabody Institute, one by the Maryland Institute for the Promotion of the Mechanic Arts, one by the Architectural Club of Baltimore, one by the Board of Park Commissioners, and one by the Charcoal Club; the members of the Commission shall serve without pay. If any of said institutions shall fail to name a Commissioner for thirty days after having been requested in writing by the Mayor so to do, the Mayor shall name such Commissioner.

**202.** No statue, ornamental fountain, arch or gateway, monument or memorial of any kind shall be erected, nor any change made in those already erected in any public street, avenue, square, place, park or municipal building in the City of Baltimore unless the design and site or proposed change for the same shall have been submitted to the Commission and approved by a majority thereof, and its report shall have been made to the City Council; said report shall be made within thirty days from the time when the design and site or proposed change as above specified shall have been submitted to the Commission for its approval.

**203.** The Commission shall, at the request of the Mayor, or the City Council, give its advice as to the suitability of the design for any public building, bridge or other structure, and shall report thereon in writing to the City Council. All vacancies in said Commission shall be filled by the Mayor from those named by the institutions as herein provided; and in case any of said institutions fail for thirty days, after receiving the request of the Mayor, to name a person to fill the said vacancy, the Mayor shall fill it with a person of his own selection.

## SUPERINTENDENT OF LAMPS AND LIGHTING.

204. There shall be a Superintendent of Lamps and Lighting, who shall be appointed by the Mayor in the manner prescribed in section 25 of this Article, and hold his office as therein provided. He shall have under his charge and supervision the lighting of the City of Baltimore, and shall perform the duties now performed by the General Superintendent of Lamps and Inspector and Sealer of Gas Meters, and such other duties as may be prescribed by ordinances, not inconsistent with this Article. He shall have power to appoint an assistant, who shall perform all the duties now performed by the Inspector of Illuminating Gas and Oils. The Superintendent of Lamps and Lighting shall have the power to appoint such number of district superintendents of lamplighters as the requirements of the city may demand and as are necessary to properly care for the lamps and lighting of the city, and fix their compensation, not to exceed in the aggregate the amount appropriated by ordinance. He shall have power to appoint such clerks and employees as may be necessary to properly conduct his office, and as the annual appropriations of the city for his use in the discharge of his duties may warrant. The compensation of the Superintendent of Lamps and Lighting shall be two thousand dollars per annum, payable monthly, and his assistants and the clerks and employees under him shall be paid such fixed salaries as may be prescribed by ordinance, and not in fees; all fines and inspection fees shall be paid to the Comptroller.

American Lighting Co. v. McCuen, 92 Md. 705.

## SURVEYOR.

P. L. L., (1860) Art. 4, sec. 865. P. L. L., (1888) Art. 4, sec. 825.

205. There shall be a Surveyor, to be elected on the Tuesday next after the first Monday in November in the year eighteen hundred and ninety-nine, and on the same day in every second year thereafter, and whose term of office shall commence on the first Monday in January next ensuing after his election; his duties and compensation shall be prescribed by the ordinances of the Mayor and City Council of Baltimore. Any vacancy in the office of Surveyor shall be filled by the Mayor and City Council of Baltimore for the residue of the term.

Baltimore City v. Lyman, 92 Md. 610.

## CONSTABLES.

1912, ch. 823.

206. There shall be two Constables for every ward of the



City of Baltimore, who shall be appointed by the Mayor and City Council of Baltimore and hold their offices for two years. Their duties and compensation shall be the same as are now, or may hereafter be prescribed by law or ordinances.

Constable failing to qualify within thirty days after his appointment, forfeits his position.

Little v. Schul, 118 Md. 455. (See notes to section 623).

Ordinance passed in pursuance of Charter has same force as Act of the Legislature.

Gould v. Baltimore, 119 Md. 534.

## SUPERINTENDENT OF PUBLIC BUILDINGS.

**207.** There shall be a Superintendent of Public Buildings, who shall be appointed by the Mayor in the manner prescribed in section 25 of this Article, and hold his office as therein provided. The said Superintendent of Public Buildings shall provide for the watching, cleaning and heating, and shall have charge of, the City Hall and the buildings and offices in which the different Courts of the city may be held and in which their records may be kept. He shall receive a salary of one thousand, five hundred dollars per annum, payable monthly, and perform such other duties as may be provided by ordinances, not inconsistent with this Article. He shall employ such assistants and employees, and at such compensation as may be fixed by ordinance.

## PUBLIC PRINTER.

**208.** There shall be a Public Printer, who shall be elected on the second Monday of June, in the year eighteen hundred and ninety-nine, and on the same day and month in every second year thereafter, by a convention of both Branches of the City Council. The Public Printer shall be a reputable person, firm or corporation, who shall be *bona fide* engaged in the printing business in the City of Baltimore, to execute the printing required by both Branches of the City Council, who shall perform the duties required of him, them or it by ordinances not inconsistent with this Article, and who shall, before he, they or it enter upon the discharge of his, their or its duties as such, execute a bond to the Mayor and City Council of Baltimore, in the penal sum of five thousand dollars, with the condition that he, they or it will faithfully discharge the several duties incumbent upon him, them or it, which bond shall be deposited in such place as the Mayor may select for depositing papers of this kind, and be delivered by him to his successor in office.

Baltimore City v. Lyman, 92 Md. 610.

1906, ch. 565.

**208A.** There shall be a Department of Legislative Reference of the Mayor and City Council of Baltimore. The head of said Department shall consist of a Board composed of the Mayor of Baltimore, the City Solicitor, the President of the Johns Hopkins University, the President of the Municipal Art Society, and the President of the Merchants and Manufacturers' Association of Baltimore City, and the members of the said Board shall serve without pay. The said Board shall employ a competent statistician as its executive officer to organize and conduct the said Department, and the said executive officer shall hold office from the first day of January, 1907, during good behavior, and shall be subject to removal by the said Board or a majority thereof, for incompetence or neglect of duty.

1906, ch. 565.

**208B.** It shall be the duty of said executive officer to investigate and report upon the laws of this and other States and cities relating to any subject upon which he may be requested to so report by the Mayor of Baltimore, any Committee of the City Council or the head of any City Department; to accumulate all data obtainable in relation to the practical operation and effect of such laws; to investigate and collect all available information relating to any matter which is the subject of proposed legislation by the General Assembly of Maryland, or the City Council of Baltimore; to examine acts, ordinances and records of any State or city, and report the result thereof to the Mayor of Baltimore, any Committee of the City Council or the head of any City Department requesting the same; to prepare or advise in the preparation of any bill, ordinance or resolution when requested so to do by any member of the City Council; to preserve and collect all information obtained, carefully indexed and arranged so as to be at all times easily accessible to city officials and open to the inspection of the general public; to perform such other duties as the said Board may prescribe; and to make a full and complete report thereof on or before the first day of February of each and every year to cover the work for the previous fiscal year ending December thirty-first.

1906, ch. 565.

**208C.** The Board of Estimates shall provide in the ordinance of estimates for the year 1907, and annually thereafter, for the payment of the salary of said Executive Officer, which shall not be less than \$2,000 per annum, and also a sum suffi-

cient to pay all other expenses of the said Department of Legislative Reference.

## LEGISLATIVE DEPARTMENT.

### CITY COUNCIL.

P. L. L., (1860) Art. 4, sec. 12. P. L. L., (1888) Art. 4, sec. 16.

**209.** The Legislative Department of the Mayor and City Council of Baltimore shall be vested in the City Council, which shall consist of two Branches, one of which shall be the First Branch and the other the Second Branch.

Baltimore City v. Gorter, 93 Md. 1, 8.

In connection with this section, *see*, Smyrk v. Sharp, 82 Md. 97.

P. L. L., (1860) Art. 4, secs. 13, 24. P. L. L., (1888) Art. 4, secs. 17, 28.

**210.** 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 for the same time a resident of the ward for which he is elected, and assessed with property to the amount of three hundred dollars, who has paid taxes on the same one year prior to his election, and shall hold his office for two years. Each member of the First Branch shall be paid a salary of one thousand dollars per annum, payable monthly.

Baltimore City v. Gorter, 93 Md. 8.

In connection with section 210, *see*, Kean v. Rizer, 90 Md. 507. Van-neman v. Pusey, 93 Md. 686, 690.

P. L. L., (1860) Art. 4, secs. 14, 24. P. L. L., (1888) Art. 4, secs. 18, 28. 1898, ch. 123. 1901, ch. 8.

**211.** The Second Branch shall consist of nine members, one of whom shall be the President thereof, and shall possess the qualifications and be elected as hereinafter provided. The other eight members shall be elected from four Councilmanic Districts, two from each district; said district to be established and fixed as herein defined by this Act. The members of the Second Branch, excepting the President thereof, shall be citizens of the United States above the age of twenty-five years, residents of the City of Baltimore four years prior to their election, each of whom has been assessed with property in the said city in the sum of five hundred dollars, and who has paid taxes on the same for two years prior to his election; and the said members of the Second Branch shall hold their offices for four years, except as

provided in section 213 of this Article, and each of them shall be paid a salary of one thousand dollars per annum, payable monthly.

Baltimore City v. Gorter, 93 Md. 8.

For *dicta* of the Court of Appeals in connection with provisions similar to those of section 211, *see*, Kean v. Rizer, 90 Md. 507. Vanneman v. Pusey, 93 Md. 686, 690.

*See proviso* of Act 1901, ch. 8, relating to present incumbents.

P. L. L., (1860) Art. 4, sec. 15. 1888, ch. 397. P. L. L., (1888) Art. 4, sec. 19. 1908, ch. 157.

**212.** The election for members of the First Branch shall be held on the Tuesday next after the first Monday in May in the year nineteen hundred and eleven, and upon every fourth year thereafter. Their terms of office shall be for four years. Said election shall be held by wards, and no person shall be entitled to vote for any member of the First Branch except for the member for the ward of which the voter is a resident. The members of said Branch now in office shall hold office until their successors have been elected under the provisions of this Article, and have duly qualified.

Baltimore City v. Gorter, 93 Md. 8.

P. L. L., (1860) Art. 4, sec. 16. P. L. L., (1888) Art. 4, sec. 20. 1888, ch. 397. 1890, ch. 10. 1908, ch. 157.

**213.** The election for the said eight members of the Second Branch shall be held on the Tuesday next after the first Monday in May, in the year nineteen hundred and eleven, and upon every fourth year thereafter. Their terms of office shall be for four years. The members of the Second Branch now in office shall hold office until their successors have been elected under the provisions of this Article, and have duly qualified.

Baltimore City v. Gorter, 93 Md. 8.

**214.** There shall be elected on the Tuesday next after the first Monday in May, in the year eighteen hundred and ninety-nine, and upon every fourth year thereafter, from the city at large, a person to be the President of the Second Branch of the City Council, who shall possess the qualifications required and hereinbefore defined, of the Mayor of the City of Baltimore. His duty shall be to preside over the Second Branch of the City Council, and vote on all questions, and perform such other duties as may be prescribed by ordinances not inconsistent with this Article. He shall be paid a salary of three thousand dollars per annum, payable monthly. A joint convention of the two

Branches of the City Council, by a majority vote of all the members elected to the City Council, may remove from office the President of the Second Branch for incompetency, wilful neglect of duty or misdemeanor in office, upon charges preferred by the Mayor, and after notice of such charges is given to the President of the Second Branch, and an opportunity afforded him to be heard.

Baltimore City v. Gorter, 93 Md. 8.

P. L. L., (1860) Art. 4, secs. 17, 18. P. L. L., (1888) Art. 4, secs. 21, 22.

**215.** The qualifications of electors of members of the City Council shall be the same as those of electors of the Mayor. All vacancies in the First Branch shall be filled without delay by the First Branch from the ward in which the said vacancy occurs, by an election of a person possessing the qualifications hereinbefore prescribed, to fill the unexpired term of the former incumbent. If a vacancy occurs in the Second Branch, then said Branch shall forthwith fill said vacancy by the election of a person possessing the qualifications hereinbefore prescribed from the city at large or from the proper Councilmanic District, if there be such District at that time.

Baltimore City v. Gorter, 93 Md. 8.

P. L. L., (1860) Art. 4, sec. 20. 1868, ch. 451. 1888, ch. 397. P. L. L., (1888) Art. 4, sec. 24.

**216.** The City Council shall meet on the Thursday next after the third Monday in May, in the year eighteen hundred and ninety-nine, and upon the same day in each year thereafter, and may continue in session for one hundred and twenty days, and no longer, in each year; provided, that they may, by ordinance or resolution, so arrange their sittings that the same may be held continuously or otherwise, and provided further, that the Mayor may convene the City Council in extra session, as he may now do by the fourth section of the eleventh Article of the State Constitution.

Baltimore City v. Gorter, 93 Md. 8.

Ordinances introduced during first legislative year may be passed during second legislative year..

Bond v. M. & C. C., 111 Md. 364.

P. L. L., (1860) Art. 4, secs. 21, 22, 23. P. L. L., (1888) Art. 4, secs. 25, 26, 27.

**217.** Each Branch of the City Council may compel the attendance of absent members, in such manner and under such penalties as it may by ordinance provide. The First Branch

shall appoint its own President, who shall preside at all its sessions, and shall vote on all questions, and in case of the absence, sickness or other disqualification of the Mayor and the President of the Second Branch, shall perform all the duties of the office of Mayor during the period in which the sickness, absence or disqualification of said officer shall continue. Each Branch of the City Council shall judge of the election and qualifications of its own members, subject to appeal by petition of the party aggrieved to the Baltimore City Court. With the concurrence of three-fourths of the whole members of either Branch, it may expel any member for disorderly behavior or misconduct in office, but not a second time for the same offense. Each Branch shall adopt its own rules of procedure, not inconsistent with this Article, appoint its own officers, regulate their respective compensation not to exceed in the aggregate the amount appropriated by the ordinance of estimates, and remove them at pleasure. Each Branch shall keep a journal of its proceedings, and enter yeas and nays on any question, resolution or ordinance, at the request of any member, and the deliberations of both Branches shall be public.

*Heiskell v. M. & C. C. of Baltimore*, 65 Md. 125. *Zeiler v. Central Ry. Co.*, 84 Md. 304. *Balto. City v. Gorter*, 93 Md. S. *Cf.*, *Murdoch v. Strange*, 99 Md. 89.

*Powers of Second Branch City Council.* The Charter having clothed the Second Branch with plenary jurisdiction over an election contest, all the powers necessary to make the jurisdiction effective are not implied as incidentally granted. Rules of procedure are binding only upon members and upon others coming within their sphere. *Venable v. Upshur*, Daily Record, October 11, 1901.

P. L. L., (1860) Art. 4, sec. 33. P. L. L., (1888) Art. 4, sec. 29.

**218.** The Mayor and City Council of Baltimore shall have power to pass all ordinances necessary to give effect and operation to all powers vested in the corporation of the City of Baltimore.

#### AGENTS OF THE MUNICIPAL CORPORATION.

*Adoption of Unauthorized Acts of Agents.* The municipal corporation, in the absence of any required legislative formality, may ratify and adopt a contract made by its agents unauthorized, if the subject-matter thereof be within its power and control and the contract could have been previously authorized by ordinance.

*Baltimore v. Weatherby*, 52 Md. 442.

*Implied Authority of Agents.* From considerations of public policy, public corporations such as states or municipalities, are exempt in a greater degree from responsibility for implied authority founded on the conduct of those whom they employ.

*Tome v. Parkersburg*, 39 Md. 75.

*Unauthorized Acts of Agents.* A municipal corporation cannot be held liable for the unauthorized acts of its agents.

Mayor & C. C. of Baltimore v. Eschbach, 18 Md. 276.

*No Presumption of Ratification.* Cities and other purely municipal corporations \* \* \* \* \* have neither property or power for purposes of personal aggrandizement \* \* \* \* \* They are themselves agents \* \* \* \* and are not to be *presumed* to recognize and incidentally ratify and confirm acts of their officers beyond the scope of their authority.

Mayor, etc. v. Reynolds, 20 Md. 1.

#### APPROPRIATIONS.

*Appropriations* to aid institutions of a benevolent and charitable character not created by municipal power conferred on the Mayor and City Council of Baltimore, are unauthorized.

St. Mary's Industrial School v. Brown, 45 Md. 310.

*Color Line.* The state or a municipality may lawfully grant aid to a private educational institution from which colored people are excluded.

Clark v. Maryland Institute, 87 Md. 643.

#### BALLOTS.

*Appointment of Officers.* When a municipality is empowered by charter to provide for the appointment of certain officers, and an ordinance provides that these officers shall be chosen by ballot, then, according to the principles of the common law, a blank ballot cannot be counted in estimating the total number of votes cast; and the municipality has no power, to declare by resolution, or adopt by usage, as a rule of procedure, that in the election of officers, a blank ballot shall be counted as a vote.

Murdoch v. Strange, 99 Md. 104.

#### BUILDINGS.

*Refusal of Permits.* A municipal ordinance authorizing a permit for a new building to be refused at the discretion of a municipal agency because a building to be erected does not conform in general character to the other buildings in the neighborhood of proposed building is void. The Charter power to regulate buildings in Baltimore City is limited to regulations guarding against dangers arising from unsafe construction or from the use of inflammable materials, or some similar exercise of the police power.

Bostock v. Sams, 95 Md. 400.

#### CITY COUNCIL.

*City Council Committees.* Rule laid down as to when the investigation of a City Council Committee will not be interfered with.

Williams v. Smyrk, Daily Record, February 18, 1895.

*Province* of the City Council in relation to power to pass ordinances.  
Smyrk v. Sharp, 82 Md. 97.

*Tax Rate.* The City Council is not authorized to fix the tax rate before the report of the Board of Estimates. Right of the City Council to change appropriation proposed in the Ordinance of Estimates.

Baltimore City v. Gorter, 93 Md. 8.

## CONTRACTS.

*Contracts with the Municipality.* The rights, powers and liabilities of a municipality must be considered with reference to the subject-matter to which such contracts relate, and the character in which the municipal body acts in making them. But in respect to contracts made by them in the exercise of powers intrusted to them in their municipal character, exclusively for public purposes, courts have no power to review or control their acts, unless they transcend the limits of their delegated powers.

Rittenhouse v. Mayor, 25 Md. 336.

*Modification of Contracts.* Power of the municipal corporation to modify a contract authorized by the Legislature, *discussed in—*  
Cumberland v. Wilson, 50 Md. 138.

*Ultra Vires Contracts.* When the contract is one which a municipal corporation has no authority to make, and is one which will increase the burden of taxation, then an injunction to prevent its execution may issue at the instance of any taxpayer.

Where a special power is conferred upon officers of a municipal corporation to make a contract, and the terms and conditions upon which the authority is to be exercised are prescribed, there must be at least a substantial compliance with such terms and conditions, or the contract will be invalid.

Baltimore v. Keyser, 72 Md. 109.

*Same.* When an *Ultra Vires Contract of Municipal Corporation may become valid.* When a contract by a municipal corporation is *ultra vires* it becomes valid when subsequently confirmed by the Legislature, if the contract is one which the Legislature might have originally authorized. An injunction will be granted to protect and secure rights acquired under a lawful municipal ordinance.

C. & P. Telephone Co. v. Baltimore, 89 Md. 689.

*Same. Not an Impairment of a contract.* A municipal corporation cannot make a contract which deprives subsequent municipal authorities of their legislative power. The *ultra vires* contract of a municipal corporation is not within the provision of the Federal Constitution forbidding the impairment of contracts, because where no valid contract exists, there can be no impairment of its obligation.

Westminster Water Co. v. Westminster, 98 Md. 551.

## ESTOPPEL.

*Application of the Doctrine to a Municipal Corporation.* The doctrine of estoppel applied against the city in a case where the act done, was strictly within the powers of the Mayor and City Council of Baltimore, but the corporation failed to comply with some formality or regulation which it should not have neglected.

Rose v. Mayor, 51 Md. 256.

## FRANCHISES.

*Franchises* granted by the Legislature cannot be annulled by ordinance of the Mayor and City Council of Baltimore.

Lake Roland Elv. R. R. Co. v. Baltimore, 77 Md. 352.



## IMPROVEMENTS.

*Abandonment of same by City.* A municipal corporation has the right to abandon any contemplated improvement and repeal at its pleasure any ordinance providing for the same, and after such abandonment property owners cannot compel the corporation to take and pay for property condemned for such purposes; nor does any action lie for an abandonment merely. But where the owner of property suffered loss or damage by the acts or delay of the corporation in any such case, he is entitled to redress for the same.

Mayor v. Musgrave, 48 Md. 272. Lake Roland Elv. R. R. Co. v. Baltimore, 77 Md. 352.

## LEGISLATURE.

*Power to make Valid Defective Municipal Proceedings.* The Legislature in an act conferring powers upon a municipal corporation, may make valid previous defective proceedings.

M. & C. C. of Baltimore v. Reitz, 50 Md. 574.

*Power to make Valid Ultra Vires Contract.* The principle that the Legislature may render valid a contract made by a municipal corporation, though *ultra vires* at the time it was made, if the contract is one which the Legislature might originally have authorized, applies with peculiar force to the case of a contract relating to work in which the public is interested and which is for the public benefit after it has been executed.

O'Brian v. Baltimore County, 51 Md. 15.

## LICENSES.

*Power to Impose License Fees.* A municipal corporation is not authorized to impose license fees or taxes upon particular trades or industries, unless the power to do so has been conferred upon the municipality by the State.

Cambridge v. Water Co., 99 Md. 503.

## MARKETS.

*Police Power.* The right to regulate markets is a police power.

State v. Rowe, 72 Md. 548.

## MAYOR AND CITY COUNCIL OF BALTIMORE.

*Nature of the Corporation.* The Mayor and City Council of Baltimore are but trustees of the public; the tenure of their office impresses their ordinances with liability to change. They could not, if they would, pass an irrevocable ordinance. The corporation cannot abridge its legislative powers.

State v. Graves, 19 Md. 351. Lake Roland Elv. R. R. Co. v. Balto., 77 Md. 352.

*Public Convenience and Welfare.* When the power is conferred upon the Mayor and City Council of Baltimore to do certain acts when, in its opinion, "the public convenience and welfare require it," its judgment upon the question is final.

Mayor, &c., of Balto. v. Clunet, 23 Md. 450.

## ORDINANCES.

*Compilation of Ordinances.* It is competent for a municipal legislature by a single ordinance to declare any compilation of ordinances or proposed ordinances to be in force, in the absence of a statutory prohibition.

Garrett v. James, 65 Md. 260.

*Construction of Ordinances.* A municipal corporation may pass an ordinance within the limits of its delegated powers, contingent as to its operation and effect on the existence or occurrence of facts germane to its subject-matter. The same general rules of construction which govern the interpretation of Acts of the Legislature are equally applicable to the legislative acts of a municipal corporation.

Mayor v. Hughes, 1 G. & J. 480. State *ex. rel.* Mayor v. Kirkley *et al.* 29 Md. 85.

*General Ordinances.* Rights of a citizen under general ordinances—When a citizen is entitled to certain rights under a general municipal ordinance, he cannot be deprived of them by a resolution of the City Council which excepts him from the operation of the ordinance, but leaves it in force.

Gallagher v. Flury, 99 Md. 181.

*New Charter.*—Its effect upon existing ordinances.

Bostock v. Sams, 95 Md. 400.

*Ordinance of Estimates.* Powers of City Council and Board of Estimates in relation thereto under the New City Charter.

Baltimore City v. Gorter, 93 Md. 8.

*Ordinances.*—An ordinance has all the force of statute law upon the City itself and all its citizens, and it can no more be ignored by the municipal corporation or any of its branches of government, than it could be by the humblest citizen.

Bond v. Malster, Daily Record, July 6, 1899.

*Preamble of Ordinance or Statute.* may be a key to its proper construction and interpretation.

Mayor v. Moore, 6 H. & J. 381.

*Recitals in Ordinances of Basis of Power Unnecessary.* Where the power actually exists to pass an ordinance, no power need be stated therein as its basis.

Methodist Protestant Church v. Mayor, &c., 6 Gill 391. Baltimore v. Ulman, 79 Md. 384.

*Repealing Ordinances.* A repealing ordinance cannot affect or destroy any right which was acquired under the first ordinance before its repeal.

McMechin v. Mayor, 2 H. & J. 41; 3 H. & J. 534.

*Same. Priority Between Ordinances.* Repeal of ordinances by implication.

Smyrk v. Sharp, 82 Md. 97.

*Validity of Ordinances.* An ordinance is not invalid and void simply because in its passage the rules of procedure of the City Council have been violated, and the Court cannot inquire into such violation.

Zeiler v. Hooper, Daily Record, September 23, 1896.

*Violation of Municipal Ordinances.* When restrained. The violation of a municipal ordinance will not be restrained by injunction at the instance of a party who does not show that such violation will work some special or irreparable injury to him.

King v. Hamill, 97 Md. 103.

*Void Ordinances.* Where a municipal corporation is seeking to enforce a void ordinance, a court of equity has jurisdiction, at the suit of any person injuriously affected thereby, to stay its execution by injunction.

Baltimore v. Radecke, 49 Md. 217. Baltimore v. Scharf, 54 Md. 526. Deems v. Mayor & C. C. of Balto., 80 Md. 172.

#### POWERS OF MUNICIPALITY.

*Definition and Discussion of the Various Municipal Powers.* Control of the Legislature over corporate powers.

M. & C. C. of Baltimore v. State, 15 Md. 376. Glenn v. Mayor, 5 G. & J. 424.

A *Municipal Corporation* cannot abridge, diminish or enlarge its own powers by a rule made by itself.

Heiskell v. M. & C. C. of Baltimore, 65 Md. 125.

*Construction of Powers.* The powers of a public corporation are to be strictly construed.

Baltimore v. Gill, 31 Md. 375.

#### *Delegated Powers.*

Mayor, &c. v. Hughes, 1 G. & J. 480.

*Exercise of Powers.* Ordinances passed in exercise of particular powers. The exercise of a power delegated to the municipality for the public good, is imperative and not discretionary. What constitutes a valid exercise of a power delegated to the Mayor and City Council of Baltimore.

Glenn v. Mayor, 5 G. & J. 424. Mayor, &c. v. Marriott, 9 Md. 160. Deems v. M. & C. C. of Baltimore, 80 Md. 172.

*Same. Power to Provide for Exercise of a Delegated Power.* The possession of a power by a corporation to do an act, is of itself the possession of the right to provide for the doing of the act by agents. But the giving of a power to a corporation, and the authority to provide for the exercise of the power, are different. The authority to provide for the exercise of a power not being the possession of the power itself, but a right only to confer it, or to authorize the exercise of it by others.

Mayor, &c., Balto. v. Howard, 6 H. & J. 389.

*Legislature.* When the Mayor and City Council of Baltimore are presumed to have all the power of the Legislature in a particular case.

Harrison v. Mayor, 1 Gill. 264.

*Limitation on Exercise of Municipal Powers.* The corporate authorities of the city can exercise no power which is not, in express terms, or by fair and reasonable implication, conferred upon the corporation.

St. Mary's Industrial School v. Brown, 45 Md. 310.

*Police Power.* The power of the municipality in relation to streets is classed as belonging to the police power; it is the duty of the city to preserve them for legitimate purposes.

Lake Rol. Elv. R. R. Co. v. Balto., 77 Md. 352. Deems v. M. & C. C. of Balto., 80 Md. 172.

*Power to Regulate does not include Power to Prohibit.* The power given to a municipality to regulate the manner of doing a thing, does not include the power to prohibit altogether the doing of the thing. The power given by statute to the Mayor and City Council of Baltimore to regulate the manner of appointing persons to office under the corporation does not embrace a power to destroy the right of the Mayor to nominate such officers, subject to confirmation by the City Council, when such right is expressly conferred by statute upon the Mayor.

Hooper v. Creager, 84 Md. 256.

#### QUORUM.

A Majority of a legislative body is in all cases a quorum, entitled to act for the whole, except when the power that created it has otherwise directed. A majority of the members of each Branch of the City Council of Baltimore is a quorum.

Zeiler v. Central Ry. Co., 84 Md. 304.

#### TAXING POWER.

*Belongs to Legislature.* The taxing power belongs to the Legislature and it will not be held as conferred upon a municipal corporation unless it be by express and unequivocal language or necessary implication.

State v. Rowe, 72 Md. 548.

#### ULTRA VIRES ACTS.

*Incapable of Ratification.* Where the Mayor and City Council of Baltimore has no power to authorize an act to be done, it being *ultra vires*, it has no power to adopt it after it is done.

Horn v. Mayor, 30 Md. 218.

The necessity and reasonableness of the passage of an ordinance is primarily committed to the Council, and unless the ordinance is purely arbitrary, oppressive and capricious, the Courts will not interfere to prevent its enforcement.

Baltimore v. Wollman, 123 Md. 310.

P. G. L., (1860) Art. 37, sec. 48. P. L. L., (1888) Art. 4, sec. 15.

**219.** Ordinances and resolutions of the Mayor and City Council of Baltimore may be read in evidence from the printed volumes thereof published by authority of said corporation.

Garrett v. Janes, 65 Md. 265. Central Savings Bank v. Baltimore, 71 Md. 523.

In relation to construction of sec. 219, *see also*, Shanfelter v. Mayor, etc., 80 Md. 487. Field v. Malster, 88 Md. 704.

**220.** The style of all ordinances shall be : "Be it ordained by the Mayor and City Council of Baltimore."

**221.** Every legislative act of the Mayor and City Council of Baltimore shall be by ordinance or resolution. No ordinance or resolution shall be passed except by a vote of a majority of all the members elected to each Branch, and on its final passage the vote shall be taken by yeas and nays, the names of members voting for and against the same being entered on the journal. Every ordinance enacted by the city shall embrace but one subject, which shall be described in its title, and no ordinance shall be revived, amended or re-enacted by mere reference to its title, but the same shall be set forth at length, as in the original ordinance. And no ordinance shall become effective until it be read on three different days of the session in each Branch, unless all the members elected to the Branch where such ordinance is pending shall so determine by yeas and nays, to be recorded on the Journal, and no ordinance shall be read a third time until it shall have been actually engrossed for a third reading.

Glenn v. M. & C. C. of Baltimore, 5 G. & J. 424, 429. Central Savings Bank v. Balto., 71 Md. 523. Baltimore City v. Gorter, 93 Md. 8. *Cf.*, Drennen v. Bank, 80 Md. 316. Whitman v. Stoll, 80 Md. 417. Baltimore City v. Stewart, 92 Md. 547. Sindall v. Baltimore City, 93 Md. 526. Hagerstown v. Startzman, 93 Md. 612. Ordinances introduced during first legislative year may be passed during second legislative year.

Bond v. M. & C. C., 111 Md. 364.

As to sufficiency of title, *see*,

Baltimore v. Wollman, 123 Md. 310.

**222.** In case it becomes necessary for the President of the Second Branch to fill the unexpired term of the Mayor, as herein provided, the Second Branch shall thereupon elect a new President for the unexpired term, but they shall not elect as such President one of their own number.

## MISCELLANEOUS LOCAL LAWS.

### ADVERTISEMENTS.

1908, ch. 142.

**222a.** That whenever the Mayor and City Council of Baltimore or any official, officer, employee, agent or agency thereof, shall be required or authorized under the provisions of any general or local law, or ordinance, now in force or hereafter to be enacted or adopted, to publish a notice of any description whatsoever in more than one newspaper, one of such newspapers, in the discretion of the said municipal corporation, or of the said official, officer, employee, agent or agency thereof, may be a newspaper published in the German language, and such

publication shall under such circumstances have the same validity in all respects as if such newspaper was published in the English language, but nothing in this Act shall be taken as affecting the provisions of section 49 of Article 4, title "City of Baltimore," of the Code of Public Local Laws of Maryland.

1914, ch. 477.

**222b.** That any notice or advertisement required by any law or ordinance to be published once in a daily newspaper by any department, sub-department, municipal officer not embraced in a department, or special commission or board of the Mayor and City Council of Baltimore, or by any other party, may hereafter be published in the *Municipal Journal*, issued by the Mayor and City Council of Baltimore, instead of in a daily newspaper. Any such advertisement or notice required by any law or ordinance to be inserted once or more than once in two or more daily newspapers published in the City of Baltimore may hereafter be inserted in one daily newspaper published in said city, the number of times required by such law or ordinance, and in every issue of the *Municipal Journal* published during the time said advertisement or notice is running. Any advertisement or notice which is hereafter published, as hereinabove directed, shall have the same legal effect as if it had been published in strict conformity to the law or ordinance requiring such publication, as such law or ordinance existed prior to the passage of this Act. And all laws and parts of laws, and all ordinances and parts of ordinances inconsistent with this Act are hereby repealed to the extent of such inconsistency, provided that nothing contained herein shall affect the provision of any law requiring any advertisement to be inserted in a paper published in the German language, and nothing herein shall prevent the Mayor and City Council of Baltimore, or any department, sub-department, municipal officer not embraced in a department, or special commission or board from inserting any advertisement or notice in one or more than one daily newspaper published in the City of Baltimore, in addition to the advertisement herein provided for in the *Municipal Journal*, whenever in its or their judgment such additional advertisement should be made.

#### ARBITRATION—COURT OF.

1878, ch. 383. P. L. L., (1888) Art. 4, sec. 65.

**223.** The Board of Trade shall have power and authority to create and organize within itself a Court of Arbitration for the

adjudication and settlement, according to the principles of law, equity and commercial usage, or of either, applicable thereto, of any and all controversies concerning or growing out of contracts of sale, manufacturing or letting on rent; of the making or negotiating or transfer of bills of exchange, promissory notes, bills of lading, railroad, warehouse or similar receipts, and other such commercial paper; of guaranties, of agency, of bailment, of partnership, of insurance, of affreightment, or of any other transaction, of whatever specific class, pertaining to trade, commerce, navigation, manufactures or mechanical arts, or business connected with any of these, or contracts for personal work, labor and service done or rendered, or to be done or rendered, in and about the pursuit and transactions of trade, commerce, navigation, manufactures or mechanical arts, one or more of the parties to which controversies is or are members of the said corporation, in all cases wherein such controversy is by the consent of all the parties thereto, signified by a submission in writing, referred for adjudication and settlement to said court.

As to rule when Public Local and Public General laws conflict, *see*, *Everett v. Avery*, 19 Md. 143. *Mayor v. Groshon*, 30 Md. 436. *Cooper v. Holmes*, 71 Md. 20. *McCracken v. State*, 71 Md. 54. *State v. Falkenham*, 73 Md. 466, 467. *Hooper v. Creager*, 84 Md. 259. *Herbert v. Co. Com'rs, Balto. Co.*, 97 Md. 639.

1878, ch. 383. P. L. L., (1888) Art. 4, sec. 66.

**224.** In order to the due and effective execution of the power in the next preceding section granted, the said corporation shall have the further power, either directly in corporate meeting, whether the regular annual meeting or a special meeting called for the purpose by reasonable notice to all the members, of the time, place and object thereof, by advertisement in one or more of the daily newspapers of the City of Baltimore, or else by delegation, in such meeting, by rule or otherwise, made through the officers and directors, constituting the Board of Directors or management of said corporation, in either case by the concurring votes of a majority of the members of said corporation or Board of Directors, as the case shall be, present at such meeting of the one or the other for the purpose—provided there be then and there a quorum present, as constituted by the Constitution, Articles of Association or By-Laws of the said corporation or Board of Directors—from time to time to elect from among those persons who have been, or before any such election shall have been, admitted to practice law in this State, one learned in the law and possessing such other qualifications as the said corporation shall, by rule or regulation, as hereinafter empowered,

prescribe, whether such person be a member of said corporation or not, unless otherwise provided by such rule or regulation, as Judge of the said Court of Arbitration, and also to elect in like manner, or to provide for the election or appointment of a Clerk of the said Court; and shall have power also, by rules and regulations duly adopted by the said corporation in such corporate meeting as aforesaid, or by the delegation of said corporation in such meetings made by its said Board of Directors to define the duties, powers and functions of the said Judge and of the said Clerk, and of any other members or officers of the said Court of Arbitration provided for as hereinafter is authorized, and to determine the jurisdiction of the said Judge, original and appellate, whether sitting alone or with laymen, members of the said corporation associated with him, and to fix the term of time for which the said Judge and the said Clerk, respectively, shall be elected, and the terms and conditions upon which each shall hold or continue to hold his office, and the amount and mode of the compensation of each, not to be diminished, however, during the currency of the term of office; to provide for the appointment of temporary substitutes for the said Judge and the said Clerk, or either, when from any cause this shall be necessary for the prompt administration of the justice of the court, and also for the appointment of lay arbitrators as members of the said corporation, for the hearing and determination of a particular case, either in the first instance with right to the parties, or either or them, to appeal to the said Judge, or as assessors associated with the said Judge when parties so choose, and to define, in such cases, the powers, duties and authority of such lay arbitrators or assessors; and also prescribe the forms and modes of application, procedure, pleading, practice, trial and process in the said court, in all the necessary details thereof, and the effect of the awards and judgments or decisions of the said court, as to the finality or conclusiveness or otherwise thereof, and the methods and means of securing compliance therewith by the parties; and also to regulate the costs and fees to be paid by the parties to any such controversy, so submitted, and the amount and time and manner of payment thereof, and the disposition of such costs and fees; provided, however, that no such rule or regulation shall be valid if it shall be contrary to the general law of the State, or to natural right or sound reason, or to be intended to provide for enforcing payment or other performance of the award, judgment or decision of the said Court or Board of Arbitration by any final process of execution otherwise than is directed in the succeeding section.



1878, ch. 383. P. L. L., (1888) Art. 4, sec. 67.

**225.** When, in any such case so submitted as is hereinbefore provided, an award, judgment or decision shall have been rendered by the said Court or Board of Arbitration, that is, according to the rules and regulations hereinbefore authorized, final and conclusive upon the parties, and shall have been recorded by the Clerk of the said Court in a book to be provided and kept for the purpose within a time limited therefor in the said rules and regulations, the successful party shall have the right to have the said original award, judgment or decision in writing, signed by those members of the said Court or Board concurring therein, and duly certified by the Clerk to be the original award, judgment or decision, under his hand and seal of the corporation; and if the said award, judgment or decision, shall be for the recovery by the one party and payment to him by the other, of a certain sum of money, the said successful party shall, upon his filing the said award, judgment or decision so certified, with the Clerk of the Superior Court of Baltimore City, or at his option with the Clerk of the Court of Common Pleas of said city, have the right to have the same entered by its proper style, in the name of such successful party as plaintiff, against the losing party as defendant, in its order of time, upon the court calendar or docket of causes to be called at the next succeeding term or rule day of said court, whichever shall first occur, and upon the call thereof in its course, to have judgment at once ordered and entered up, as upon a verdict for the recovery of the same amount, according to the practice of said court, and to have process of execution for its enforcement and satisfaction in all respects as if the said amount had been recovered by a judgment of the said court in a regular suit between the same parties in the same relative position on the record, there instituted and prosecuted in the ordinary modes of proceeding therein; but if the said award, judgment or decision shall be for the recovery by the one party, and the surrender or delivery by the other to him of the possession of specific property, the said successful party, upon filing such award, judgment or decision, so certified as aforesaid, with the Clerk of the Circuit Court of Baltimore City, or such other court therein as shall at the time have jurisdiction there of causes in equity, shall have the right, on or at any time after the first day of the next succeeding term, or on or at any time after the next succeeding rule day of the said court, whichever shall first occur, to have, upon motion therefor, an order made by the said court, affirming the said award, judgment or decision, and making the same a decree of the said

court, and to have the same enforced, if the recovery be of the possession of land, freehold or leasehold, by a writ in the nature of a writ of *habere facias possessionem*, such as the said Court is authorized to issue for the purpose of putting a purchaser under its decree in possession of the land purchased by him, and to be executed in the same manner and by the same officer against such losing party to such award, judgment or decision, and any and all and every other person in possession of said land, claiming the same by virtue of a title derived from, through or under such losing party, and acquired subsequently to the date of such award, judgment or decision, which said writ the said court is authorized and empowered to issue for this purpose upon application in writing of such successful party to the said award, judgment or decision, in person or by attorney, verified by the affidavit of himself or his attorney, unless good cause to the contrary shall be shown by such party in possession within not less than fifteen or more than thirty days after notice in writing of such application served upon such party in possession in person; and if the recovery be of the possession of personal chattels, by such process of execution and compulsion as in the chancery practice of this State, is usual and proper for the enforcement of a decree for the specific delivery of personal chattels.

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

1870, ch. 136. P. L. L., (1888) Art. 4, sec. 68.

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

1870, ch. 136. P. L. L., (1888) Art. 4, sec. 69.

**227.** The mode of proceeding of said Arbitration Committee, shall be regulated by the by-laws of the corporation, which shall be substantially complied with in all cases, without prejudice, however, to any award from merely formal irregularity. The said committee shall have power to apply to any Justice of the Peace for the City of Baltimore to issue subpoenas and other compulsory process to procure the attendance of witnesses before it; and all justices so applied to in writing, signed by the chairman or acting chairman of said committee, shall issue such process forthwith, the cost of the same, and of the attendance of the witnesses so summoned, to be the same as in civil suits before such justices, and to be collectible from the parties on whose behalf the said witnesses shall be summoned and attend, in the same manner and by the same means, as if adjudged to be paid by a judgment of the justice who shall act in the premises in a civil suit between the same parties depending before him. A majority of said committee may act in all cases, and a majority of such majority shall have power to render an award in the name of and as an act of the committee. No dissenting award or opinions shall be rendered or placed among the proceedings, or upon the records of the committee or the corporation; the award of the committee rendered in conformity herewith, and as prescribed by the by-laws, shall be conclusive on all parties to the submission. It shall in all cases be in writing, signed by the members of the committee who agreed upon it, and filed among the proceedings of the committee, but copies shall be given by the secretary, with his attestation and the seal of the corporation attached, to the respective parties, as soon as may be after said award shall have been rendered.

As to setting aside an award under arbitration, *see*, Mitchell v. Price, Daily Record, February 10, 1894. In relation to arbitration and award, *see also*, Roberts v. Consumers' Can Co., 102 Md. 362.

1870, ch. 136. P. L. L., (1888) Art. 4, sec. 70.

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

corporation, for record with the clerk of any court of this State having jurisdiction of the subject-matter, and the person against whom said enforcement is sought; and thereupon it shall be the duty of said court, on motion or application, *ex parte*, at any time after ten days from the filing of the award, to enter judgment or decree thereupon, as upon a final award made by referees under rule of court; upon which judgment or decree, execution shall issue without stay. No matter affecting the title of real estate, however, shall be submitted to or arbitrated by the said committee under this or the preceding section, but the committee may direct in its award the payment of the costs and expenses of the arbitration, and the amount thereof shall be embraced as a principal sum in the judgment or decree to be rendered; if awarded, to be paid by the party against whom such judgment or decree is sought. No judgment or decree rendered on any such award shall be liable to be stayed, except upon allegation, under oath of the defendant, of manifest fraud in the procurement or rendition of the award, or of a material and substantial failure of the committee specifically alleged and set forth, to comply with the by-laws or sections 226 or 227, in the hearing and determination of the matters submitted; nor shall any such judgment or decree be quashed, modified or stricken out, except upon satisfactory proof of the matters so required to be so alleged; neither shall there be any appeal in any case from the original judgment, order or decree, whereby, after a hearing of the allegations and proofs as aforesaid, the said original judgment or decree shall be maintained.

### ASSAULT AND BATTERY.

P. L. L., (1860) Art. 4, sec. 155. P. L. L., (1888) Art. 4, sec. 71.

**229.** 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 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 be imprisoned not less than one month, or the Judge of the Criminal Court of Baltimore City, or the judge having jurisdiction of the offense, may, in his discretion, sentence the person convicted of such offense to confinement in the penitentiary for a period not less than six months nor more than two years.

P. L. L., (1860) Art. 4, sec. 156. P. L. L., (1888) Art. 4, sec. 72.

**230.** It shall not be necessary to state with more particu-

larity 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.

P. L. L., (1860) Art. 4, sec. 157. P. L. L., (1888) Art. 4, sec. 73.

**231.** 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 offense 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.

#### AUCTIONS.

**232.** Repealed by Act of 1900, Chapter 208.

**233.** Repealed by Act of 1900, Chapter 208.

**234.** Repealed by Act of 1900, Chapter 208.

P. L. L., (1860) Art. 4, sec. 88. P. L. L., (1888) Art. 4, sec. 77.

**235.** 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.

State v. Hoboken Bank, 84 Md. 325.

P. L. L., (1860) Art. 4, sec. 89. P. L. L., (1888) Art. 4, sec. 78.

**236.** 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, or unless the same be part of what was offered for sale at said public auction or was advertised to be sold thereat.

P. L. L., (1860) Art. 4, sec. 90. P. L. L., (1888) Art. 4, sec. 79.

**237.** 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.

State v. Hoboken Bank, 84 Md. 325.

P. L. L., (1860) Art. 4, sec. 91. P. L. L., (1888) Art. 4, sec. 80.

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

State v. Hoboken Bank, 84 Md. 325.

P. L. L., (1860) Art. 4, sec. 92. P. L. L., (1888) Art. 4, sec. 81.

**239.** 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.

Warehime v. Graf, 83 Md. 98.

P. L. L., (1860) Art. 4, sec. 93. P. L. L., (1888) Art. 4, sec. 82. 1894, ch. 350.

**240.** 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 to exceed thirty.

P. L. L., (1860) Art. 4, sec. 94. P. L. L., (1888) Art. 4, sec. 83.

**241.** 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.

McMechin v. Mayor, 2 H. & J. 41. McMechin v. Mayor, 3 H. & J. 534.

P. L. L., (1860) Art. 4, sec. 95. 1872, ch. 249. P. L. L., (1888) Art. 4, sec. 84.

**242.** Any auctioneer paying the license fee, and executing the bond prescribed in the preceding 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 of the City of Baltimore, showing the full amount of his sales of every kind, distinguishing his sales of goods, wares and merchandise, and personal effects of every kind, from his sales of real estate and houses; and if any auctioneer under said license shall sell any amount exceeding the sum named in the last preceding section, he shall be subject to all the penalties hereinafter imposed upon auctioneers who shall sell without license.

This section has been modified to conform to the changes in the law made necessary by the repeal of section 233 of this Article, by Act 1900, ch. 208.

P. L. L., (1860) Art. 4, sec. 96. P. L. L., (1888) Art. 4, sec. 85.

**243.** 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 State Treasurer the sum of seven hundred and fifty dollars as a license fee.

P. L. L., (1860) Art. 4, sec. 97. P. L. L., (1888) Art. 4, sec. 86.

**244.** 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 State Treasurer the sum of one hundred and fifty dollars.

P. L. L., (1860) Art. 4, sec. 98. P. L. L., (1888) Art. 4, sec. 87.

**245.** 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 State Treasurer the sum of fifty dollars as a license fee.

P. L. L., (1860) Art. 4, sec. 99. P. L. L., (1888) Art. 4, sec. 88.

**246.** A license may, on the request and with the consent of

the party, be issued by the State 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 been commenced before such license was obtained.

P. L. L., (1860) Art. 4, sec. 100. P. L. L., (1888) Art. 4, sec. 89.

**247.** In case of the death of any auctioneer before the time limited in his license has expired, his co-partner or co-partners, if he has any, or his personal representative, may continue to act under the license for the unexpired term.

P. L. L., (1860) Art. 4, sec. 101. P. L. L., (1888) Art. 4, sec. 90.

**248.** All recognizances directed to be taken by this subdivision of this Article 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 State 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.

P. L. L., (1860) Art. 4, sec. 102. P. L. L., (1888) Art. 4, sec. 91.

**249.** The State 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 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.

P. L. L., (1860) Art. 4, sec. 103. 1872, ch. 249. P. L. L., (1888) Art. 4, sec. 92.

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



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

P. L. L., (1860) Art. 4, sec. 104. 1872, ch. 249. P. L. L.,  
(1888) Art. 4, sec. 93.

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

P. L. L., (1860) Art. 4, sec. 105. P. L. L., (1888) Art. 4, sec. 94.

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

P. L. L., (1860) Art. 4, sec. 106. P. L. L., (1888) Art. 4, sec. 95.

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

P. L. L., (1860) Art. 4, sec. 107. P. L. L., (1888) Art. 4, sec. 96.

**254.** The recognizance herein required shall be annually renewed.

P. L. L., (1860) Art. 4, sec. 108. P. L. L., (1888) Art. 4, sec. 97.

**255.** If any surety of any auctioneer shall remove from this State or become insolvent the State Treasurer shall demand other surety in his 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 State Treasurer shall immediately give public notice thereof in two or more public newspapers published in said city.

P. L. L., (1860) Art. 4, sec. 109. P. L. L., (1888) Art. 4, sec. 98.

**256.** If any auctioneer appointed under this sub-division of this Article 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 sub-division of this Article.

P. L. L., (1860) Art. 4, sec. 110. P. L. L., (1888) Art. 4, sec. 99.

**257.** 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 State 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 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, during his pleasure, the person convicted from acting as auctioneer.

P. L. L., (1860) Art. 4, sec. 111. P. L. L., (1888) Art. 4, sec. 100.

**258.** 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 of such horses and carriages, as he shall deem best calculated to promote public convenience and protect the persons of individuals from danger.

P. L. L., (1860) Art. 4, sec. 112. P. L. L., (1888) Art. 4, sec. 101.

**259.** 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.

P. L. L., (1860) Art. 4, sec. 113. P. L. L., (1888) Art. 4, sec. 102.

**260.** No auctioneer specially licensed for selling books, maps or prints shall be entitled to demand or receive, without a pre-

vious agreement to the contrary, from any person, directly or indirectly, a commission exceeding seven dollars and fifty cents for every hundred dollars of the purchase money arising from such sales, exclusive of all duties.

P. L. L., (1860) Art. 4, sec. 114. P. L. L., (1888) Art. 4, sec. 103.

**261.** 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.

*See decisions of Brown, C. J., in the City Court, March, 1874, in cases, Henry Linker v. Woodville and Norman, and Grotjan and Mitchell v. Emerick.*

P. L. L., (1860) Art. 4, sec. 115. P. L. L., (1888) Art. 4, sec. 104.

**262.** No auctioneer, licensed generally for the sale of goods, wares and merchandise, exceeding one hundred and fifty thousand dollars, without a previous agreement to the contrary, shall be entitled to demand or receive for his services, directly or indirectly, a commission exceeding two dollars, clear of all duties, for every hundred dollars of the purchase money arising from such sales, except upon sales of furniture and wearing apparel, upon which they shall be entitled to receive four dollars, clear of duties, for every hundred dollars arising from such sales; and except also upon the 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.

P. L. L., (1860) Art. 4, sec. 116. P. L. L., (1888) Art. 4, sec. 105.

**263.** Any auctioneer who shall receive or accept any greater or higher reward for his services than is authorized by this sub-division of this Article, shall forfeit the sum of five hundred dollars for every offense, 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.

P. L. L., (1860) Art. 4, sec. 117. 1872, ch. 249. P. L. L., (1888) Art. 4, sec. 106.

**264.** No auctioneer shall authorize or permit any person

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

P. L. L., (1860) Art. 4, sec. 118. 1872. ch. 249. P. L. L., (1888) Art. 4, sec. 107.

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

P. L. L., (1860) Art. 4, sec. 119. P. L. L., (1888) Art. 4, sec. 108.

**266.** Every auctioneer within thirty days after the first days of January, April, July and October of the year for which he shall have been appointed, and in each and every year that he shall hold and continue in the office and duty of such auctioneer, shall render to the Comptroller of the City of Baltimore a true and particular account in writing of the money or sums of money for which any goods, wares or merchandise, or other property of every kind, shall have been sold at every sale since entering on the duties of his office, or since the last account was rendered, of the amount of each day's sales and the days when sold, distinguishing the sales made by him personally or in his presence, and those made by his partner or partners or clerk, in consequence of his absence; setting forth, also, the amount of all goods, wares, merchandise and other property sent or entrusted to him, his partner or partners for 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, duplicate copies of which said accounts, properly sworn to as required in section 267, shall be

transmitted to the Comptroller of the State, by every such auctioneer, within the said thirty days after the said first days of January, April, July and October of the year or years as aforesaid; and every auctioneer shall, within thirty days after rendering such account, pay over to the said Comptroller of Baltimore City, for the use of the State, subject to provisions hereinafter contained, all such sum or sums of money as appear to be due from him to the State for duties, according to law.

P. L. L., (1860) Art. 4, sec. 120. 1872, ch. 249. P. L. L., (1888)  
Art. 4, sec 109.

267. The auctioneer making such returns, at the time of making the same shall take before some Justice of the Peace, or Judge of a court of record the following oath; "I. . . . ., do solemnly and sincerely swear that the account now exhibited by me, and to which I have subscribed my name, contains a just and true account of all the goods, wares and merchandise, and property of every kind, sold or struck off by me at public sale, or sold at private sale, on the days of my public auctions, or sold or struck off as aforesaid by my co-partner or co-partners (if any there be), or by others in my name, or under my direction, and in my actual and *bona fide* employment (as the case may be), and the days upon which the same were respectively sold; that I have examined the entries of all sales mentioned in said account in the books kept by me for that purpose, and I fully believe this account to be correct; and, further, that I have, during the time mentioned, conformed in all things to the provisions of the law relating to auctions in Baltimore City, according to the best of my knowledge and belief, so help me God." And he shall cause a certificate of the fact that he has taken such oath, duly signed by said Justice or said Judge, and a certificate of the Clerk of the Superior Court of Baltimore City, of the official character of said Justice when signed by him, to be annexed to said return; and no account or return of sales, as provided to be made and rendered in the preceding section shall be deemed or held to be "a true and particular account," within the meaning of said preceding section, unless the oath herein provided is made and annexed to such account or return of sales; and the auctioneer refusing or neglecting to make and to annex such oath shall be liable to be proceeded against as if he had not made and rendered any account or return of sales as required by law.

P. L. L., (1860) Art. 4, sec. 121. 1872, ch. 249. P. L. L., (1888)  
Art. 4, sec. 110.

**268.** If any auctioneer shall refuse or neglect to transmit to the State Treasurer a duplicate of the record of his recognizance as before required, or shall neglect or refuse to render an account of sales to the Comptroller of the City of Baltimore quarter-yearly, or shall refuse or neglect to transmit a duplicate copy of such account to the Comptroller of the State within the time or times limited for rendering such account or transmitting such duplicates as provided in section 266, or shall refuse or neglect to pay over to the Comptroller of the city the money or moneys due from him to the State for duties, according to law, within thirty days after rendering such account, he shall, in and for each and every such case of refusal or neglect, be deemed guilty of a misdemeanor, and shall be subject to presentment and indictment in the Criminal Court of Baltimore, and on conviction thereof shall be fined in a sum not exceeding seven hundred dollars, nor less than one hundred dollars, and on conviction shall further be deemed to have forfeited his appointment as auctioneer, and shall be disqualified from acting as auctioneer under the same; provided, it shall be competent for such auctioneer at the trial of such suit to give in evidence every matter or thing going to show a satisfactory excuse on his part for such neglect or refusal; and if the jury before which such suit shall be tried shall think such excuse satisfactory, they shall return a verdict for the defendant; the defendant, however, in such case to pay the costs of the prosecution and provided further, that no suit or indictment, or conviction, under this section, for the penalties herein contained, shall be held to bar or prevent the State from bringing such civil action or actions in any of the courts of this State against any auctioneer, or on his bond, for the recovery of money that may be due the State, or for the non-performance or mis-performance of any duty imposed upon him by this subdivision of this Article, and for which a civil action would lie against him or on his bond.

P. L. L., (1860) Art. 4, sec. 122. P. L. L., (1888) Art. 4, sec. 111.

**269.** 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 State Treasurer, within the

same time that an account is required to be rendered, under the penalty prescribed in the last preceding section.

P. L. L., (1860) Art. 4, sec. 123. P. L. L., (1888) Art. 4, sec. 112.

**270.** 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.

P. L. L., (1860) Art. 4, sec. 124. 1872, ch. 249. P. L. L., (1888) Art. 4, sec. 113.

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

P. L. L., (1860) Art. 4, sec. 125. P. L. L., (1888) Art. 4, sec. 114.

**272.** If any person shall, within seven days after any such offence shall be committed, prosecute for the penalties imposed by this sub-division of this Article, the State 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.

P. L. L., (1860) Art. 4, sec. 126. P. L. L., (1888) Art. 4, sec. 115.

**273.** If any person shall wilfully swear falsely touching any matter hereinbefore required in this sub-division of this Article 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 also forfeit his office.

P. L. L., (1860) Art. 4, sec. 127. 1872, ch. 249. P. L. L., (1888)  
Art. 4, sec. 116.

**274.** The proceeds of such auction duties to the amount of twenty thousand dollars shall be paid over by the Comptroller of the city, as the same shall be received by him, to the Mayor and City Council of Baltimore, to be by said Mayor and City Council of Baltimore annually appropriated to the purpose of deepening and improving a channel in the Chesapeake Bay and Patapasco River and the harbor of the City of Baltimore.

P. L. L., (1860) Art. 4, sec. 128. 1872, ch. 249. P. L. L., (1888)  
Art. 4, sec. 117.

**275.** It shall be the duty of the Mayor and City Council of Baltimore, on or before the fifteenth day of September in each year, to report to the Comptroller of the State a fair and strict account of their disbursement of the fund arising from said auction duties, as to the amount the same are appropriated in the preceding section, in relation to the deepening and improving said channel, Patapasco River and Baltimore City harbor; and the said Comptroller shall report the same to the General Assembly.

P. L. L., (1860) Art. 4, sec. 129. 1872, ch. 249. P. L. L., (1888)  
Art. 4, sec. 118.

**276.** If the net proceeds of said auction duties shall exceed the sum of twenty thousand dollars, the excess of said duties above that sum shall, for each and every year that they shall exceed that sum, be paid over by the Comptroller of the City of Baltimore to the Treasurer of the State; and in case of such excess as aforesaid, the Comptroller of the city shall also render to the Comptroller of the State a brief statement or account, showing the amounts received by him on account of auction duties, the amount paid the Mayor and City Council of Baltimore, under Section 274, and the balance due the State and payable to the State Treasurer—which said balance, if any, and whenever the same shall arise from said auction duties, shall be paid to said Treasurer on or before the twenty-fifth day of September in each and every year.



P. L. L., (1860) Art. 4, sec. 130. P. L. L., (1888) Art. 4, sec. 119.

**227.** The provisions of the three preceding sections shall not have any effect if the City of Baltimore, by ordinance or otherwise, shall 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.

P. L. L., (1860) Art. 4, sec. 131. P. L. L., (1888) Art. 4, sec. 120.

**278.** Nothing contained in this sub-division of this Article shall prohibit the sale of leather, iron or tobacco, by the person who manufactured the same, without the license herein required.

## BAIL.

1898, ch. 138, sec. 207A.

**278a.** The Clerk of the Criminal Court of Baltimore shall have power at any time to take bail when authorized by the court, whether the court is in session or not, and although the defendant is not present or does not join in the recognizance, but in all cases, before bail is taken by the Clerk, the court shall fix the amount thereof.

In relation to bail, *see*, *Smith v. Fowler & Thomas*, Daily Record, March 11, 1903.

1898, ch. 138, sec. 207B.

**278b.** Whenever any person charged with a criminal offence desires to be admitted to bail, his recognizor, except as provided for in the next succeeding section, shall sign and make oath to an application in which shall be stated the location of his property, his interest therein, its value, ground rent, mortgages, and other recognizances and incumbrances, if any, to which it may be subject, and such other matters as may be inquired of, and required to be inserted in the application by the clerk to whom such application is made, to enable such clerk to determine the value of the security offered.

1898, ch. 138, sec. 207C.

**278c.** The Clerk of the Criminal Court of Baltimore may, when so ordered by the court, admit any person to bail on his own recognizance, or may accept a recognizor without stated property qualifications.

1898, ch. 138, sec. 207D.

**278d.** It shall be sufficient for recognizances taken in the Criminal Court of Baltimore, when signed by the judge or the clerk thereof, to conform to the following formula: "You and each of you acknowledge yourselves to owe and stand indebted to the State of Maryland in the sum of.....dollars for the appearance of.....at this court on the.....day of .....18..., to answer the charge alleged against him, and to attend this court thenceforth from day to day until discharged therefrom in due course of law."

1898, ch. 138, sec. 207E.

**278e.** Every recognizance taken in any criminal proceeding in Baltimore City shall be a lien upon the property of the recognizer mentioned in his application from the date of the acknowledgment of such recognizance, unless such recognizance shall have been acknowledged before a police justice or before a court upon writ of *habeas corpus*, in which it shall be a lien from the time it is filed with the clerk of the Criminal Court of Baltimore. When any recognizance is forfeited it shall become a judgment, and shall have all the effects of judgments rendered in civil causes, and may be enforced by execution by order of the State's Attorney at any time within six years from the date of the forfeiture, and not afterwards.

1898, ch. 138, sec. 207F.

**278f.** It shall be the duty of the clerk of the Criminal Court of Baltimore immediately to record, in a properly indexed book to be provided for that purpose, the names of the persons who have entered into recognizances, the date of the filing of the recognizance with the clerk of the Criminal Court, if such recognizance has been acknowledged before a police justice, or before some other court upon writ of *habeas corpus*, the amount thereof, and the date of the acknowledgment of the same; the location of the property mentioned in the application, and when any recognizance shall be forfeited; and when any forfeiture shall be stricken out or discharged, it shall be the duty of the said clerk to make an appropriate entry in said book, showing such disposition of the recognizance or the forfeiture, together with the date thereof.

1898, ch. 138, sec. 207G.

**278g.** Any officer having power to admit to bail may accept as recognizer any bonding, guarantee or trust company incor-

porated under the laws of the State of Maryland, or under the laws of any State in the United States, and doing business in the City of Baltimore, which is authorized by its charter to become surety on official bonds.

1898, ch. 138, sec. 207H.

**278h.** No police justice of the City of Baltimore shall accept bail for persons charged with manslaughter, murder or any offense the punishment for which may be death; any such justice may, in his discretion, accept the bail for any person charged with the commission of any felony other than those above mentioned, and any misdemeanor the punishment for which may be confinement in the penitentiary; and whenever bail is offered for any person charged with the commission of any misdemeanor other than those already set forth, such justice shall accept the same; provided he is satisfied with the security offered.

1898, ch. 138, sec. 207I.

**278i.** Whenever a person charged with a bailable, criminal offense before a police justice desires to be admitted to bail, his recognizor shall sign and make oath to an application in which shall be stated such matters as may be required of, and required to be inserted in such application by the police justice to enable him to determine the value of the security offered. Any recognizance acknowledged before such justice shall be good, although the defendant does not join in the same.

1898, ch. 138, sec. 207J.

**278j.** Whenever any person charged with the commission of a criminal offense is admitted to bail by a police justice for appearance in the Criminal Court of Baltimore, such justice shall forthwith deliver the recognizance to the clerk of said court, such recognizance shall then become a record of said court, and may be forfeited, and the forfeiture may be enforced in the same manner as if the recognizance has been taken by the court.

1898, ch. 138, sec. 207K.

**278k.** Whenever any person charged with a criminal offense before a police justice is admitted to bail for further hearing, if such person does not appear at such hearing according to the tenor of his recognizance, it may be forfeited. If forfeited, the justice shall note the forfeiture on the recognizance, and

deliver it to the clerk of the Criminal Court of Baltimore, the said forfeited recognizance shall then become a record of said court, and shall have the same effect and may be enforced in the same manner as if it had been taken and forfeited by the court.

## BILLS OF EXCHANGE AND PROMISSORY NOTES.

When protest by notary, unnecessary to hold endorser, *see*, Kirk v. Belts, Daily Record, March 26, 1891.

**279.** Repugnant to provisions of Act 1898, Chapter 198. See proviso, section 3, Act 1898, Chapter 123, post.

1892, ch. 462. 1898, ch. 198, (sec. 120A).

**279a.** Any bill of exchange, bank check, draft or promissory note presentable for payment or acceptance in the City of Baltimore on the first day of the week commonly called Sunday, shall be deemed to be presentable for payment or acceptance on the next succeeding secular or business day.

1892, ch. 462. 1898, ch. 198, (sec. 120B).

**279b.** It shall be lawful for banks and bankers in the City of Baltimore to close their doors for business at twelve o'clock noon on each and every Saturday in the year, and every Saturday in the year after twelve o'clock noon, shall for all purposes whatever, so far as regards the presenting for payment or acceptance and the protesting and giving notice of the dishonor of bills of exchange, bank checks, drafts, promissory notes and other negotiable paper, be a legal half-holiday, and shall be treated and considered as the first day of the week, commonly called Sunday, and all such bills, checks, drafts and notes, which, on their face, or under any existing law or by the provision of this Act shall be payable or presentable for acceptance or payment on any half-holiday Saturday shall be deemed to be payable or presentable for acceptance or payment, and notice of protest and dishonor thereof may be given on the next succeeding secular or business day; provided, that checks and paper payable at sight, or on demand, presentable for payment on half-holiday Saturday may, at the option of the holder thereof, be payable and presentable for acceptance or payment on such half-holiday Saturday before twelve o'clock noon; provided further, that for the purpose of protesting or otherwise holding liable any party to any such check or paper payable at sight, or on demand, presentable for payment on any half-holiday

Saturday, and which shall have been presented and dishonored on such half-holiday Saturday, notice of protest and dishonor thereof may be given on the next succeeding secular or business day; and provided further, that whenever any person shall receive for collection in said City of Baltimore, any bill of exchange, bank check, draft or promissory note due and presentable for acceptance or payment on any half-holiday Saturday, such person shall not be deemed guilty of any neglect or omission of duty, or incur any liability in not presenting for payment or acceptance, or collecting such bill of exchange, bank check, draft or promissory note on that day; and provided further, that in construing this section, every half-holiday Saturday shall, until twelve o'clock noon, be deemed as a secular or business day.

1892, ch. 462. 1898, ch. 198, (sec. 120C).

**279c.** Whenever any bill of exchange, bank check, draft or promissory note shall be presentable for payment in the City of Baltimore on the secular or business day next succeeding the day on which it would otherwise have been presentable for payment, interest on the same shall be computed down to and including such secular or business day.

## BUILDINGS.

1880, ch. 133. P. L. L., (1888) Art. 4. secs. 125-128, 131A, 131B.  
1896, ch. 363.

**280.** It shall not be lawful for the owners or lessees of any public hall, church, school or place of amusement, in the Cities of Baltimore, Annapolis, Cumberland, Frederick, Hagerstown or Frostburg, to obstruct, or allow to be obstructed by others, any of the aisles or passage-ways in the auditorium of said halls, churches, schools or places of amusement, by placing therein any benches, chairs or stools, or other articles that may prevent free ingress or egress during the hours that said places may be open to the public. Said owners or lessees, or their agents, are required to keep open at all hours during the time said halls, churches, schools or places of amusement are open to the public, all doors giving ingress or egress, unless said doors open outward from said places; then the same may be closed, but no hindrances, such as locks or catches of any kind, shall be allowed to obstruct or prevent instant and easy egress through the same; and when said doors open inwards, it is required of said owners, lessees or their agents, that said doors shall be fastened securely and firmly open. Owners or lessees, or any

person holding under them, or their agents, violating any of the provisions aforesaid, shall, on conviction thereof, be fined by the court before which such conviction is had for any violation, a sum not exceeding five hundred dollars, to be recovered as other fines in this State, one-half of which shall go to the State and the other half to the cities where such violations occur and convictions thereof are had. It is made the special duty of the Judge or Judges of the courts having criminal jurisdiction in said Cities of Baltimore, Annapolis, Cumberland, Frederick, Hagerstown and Frostburg, to especially charge the Grand Juries of said courts upon the execution of the foregoing provisions; and the police authorities of said cities are especially charged with the execution thereof, and to that end shall direct nightly examinations by some of their officers, of all such places. It shall not be lawful for any person, agent, owner or proprietor of any sweat-shop or factory where four or more persons are employed, to use any coal oil, gasoline, or any other explosive or inflammable compound for the purpose of lighting or heating in any form; and any person, agent, owner or proprietor violating this provision shall be guilty of a misdemeanor, and on conviction thereof, be fined by the court before which such conviction is had, for every violation, the sum of one hundred dollars and costs, and stand committed until such fine and costs be paid. The owner or owners of any such house or building used as a sweat-shop or factory where four or more persons are employed as garment workers, on other than the first floor of such house or building, shall provide fire-escapes for the same; and if any owner or owners of any house or building so used, fail to make or provide a fire-escape, such owner or owners shall pay a fine of two hundred dollars, to be recovered as other fines in this State, or imprisonment in the City Jail for sixty days, or both fine and imprisonment, in the discretion of the court.

In relation to the provisions in section 280 regulating sweat shops, it may be of interest to note that the Act of 1902, ch. 101, known as the "Sweat Shop Law" was held invalid, in that it was not a just and reasonable police regulation, and that it interfered with the right of the citizen to enjoy the free and profitable use of his property and also with his right of personal liberty, without due process of law.

State v. Legum, Daily Record, November 18, 1902.

1900, ch. 274.

**280a.** Before the Appeal Tax Court of Baltimore City grants any permit for the erection of new buildings it shall be shown to the said Court to its satisfaction that all taxes

due and unpaid are fully paid upon the land on which said new buildings are proposed to be erected, and no permit, as aforesaid, shall be issued until the court is so satisfied, and an appeal is allowed from this as in other cases before said court, as is allowed by law.

## CARRIAGES, HORSES AND AUTOMOBILES.

### HACKNEY CARRIAGES.

P. L. L., (1860) Art. 4, sec. 140. 1865, ch. 90. P. L. L., (1888) Art. 4, sec. 135. 1892, ch. 631. 1910, ch. 109.

**281.** The Board of Police Commissioners of the City of Baltimore shall determine and fix rates of fare and amounts to be charged by the owners, drivers, chauffeurs or persons having in charge of hackney carriages in the said city, and every owner, driver, chauffeur of or person having charge of any hackney carriage for which a license has been obtained as required by law shall be authorized and entitled to ask, charge and receive as a compensation from every person using the same the rates of fare and compensation prescribed and established by the said Board of Police Commissioners, and no more. Every vehicle, whether drawn by horses or other animal power, or propelled by mechanical motor, except a street car, used or to be used for the conveyance of persons for hire from place to place within the City of Baltimore, shall be deemed to be a hackney carriage within the meaning of this sub-division of this Article.

P. L. L., (1860) Art. 4, secs. 143, 144. 1865, ch. 90. P. L. L., (1888) Art. 4, secs. 136, 137. 1910, ch. 109.

**282.** Every hackney carriage, drawn by horse or other animal power, licensed as required by law, shall be provided with a lamp on each side, and said lamps shall be kept lighted when such vehicle is in use in the night time, and the number of the owner's license of not less than two inches in length shall be placed on each side of such carriage both within and without, in such a position as to be distinctly seen and read, and the owner, driver or person having charge of a hackney carriage, whether drawn by horse or other animal power or propelled by mechanical motor, shall keep in a conspicuous place in the interior of such carriage at all times the rates of fare and the charges prescribed and furnished by the said Board of Police Commissioners. Any owner, driver, chauffeur or person having in charge any hackney carriage as aforesaid, who shall omit,

neglect or refuse to comply with the directions herein contained shall, upon conviction, be punished by a fine of ten dollars.

P. L. L., (1860) Art. 4, sec. 145. P. L. L., (1888) Art. 4, sec. 138.  
1910, ch. 109.

**283.** Every driver, chauffeur or person having in charge any hackney carriage, licensed as required by law, whether drawn by horse or other animal power or propelled by mechanical motor, who shall refuse or omit when required to inform any person using such carriage or applying for the use of it, the true number thereof or the correct amount of the rate of fare or charge authorized to be asked for the use of it, or shall wilfully mislead, misconvey or insult by abusive or indecent and opprobrious language any passenger whom he shall have in his care for conveyance in the carriage of which he is driver, chauffeur or person having charge thereof, shall, upon conviction, be punished by a fine not exceeding twenty dollars.

1892, ch. 631. P. L. L., (1888) Art. 4, sec. 138A. 1910, ch. 109.

**284.** Any driver, chauffeur or person having in charge any hackney carriage who shall ask, charge, demand or receive more than the rates of fare or charges as established by the Board of Police Commissioners in the City of Baltimore from time to time from any passenger or passengers shall, upon conviction, be punished by a fine not exceeding fifty dollars, or imprisonment in jail for a period not exceeding six months nor less than thirty days, or both such fine and imprisonment; and any passenger or passengers who shall refuse to pay or attempt to avoid payment of the rates of fare or charges so as aforesaid established by the Board of Police Commissioners shall be guilty of a misdemeanor, and shall, upon conviction, forfeit and pay a fine of not exceeding fifty dollars.

1865, ch. 90. P. L. L., (1888) Art. 4, sec. 139. 1910, ch. 109.

**285.** No driver, chauffeur or person having charge of any hackney carriage, except omnibus, park phaeton or sightseeing vehicle, shall take up or carry any passengers after the carriage has been occupied, engaged or hired by any prior passenger until such prior passenger shall have discharged said carriage, without the consent of such prior passenger, and such prior passenger shall not be obliged or asked to pay any extra fare or fee for refusing such consent, and every person having charge of a hackney carriage shall, immediately after deliver-



ing any passenger, search said carriage for any property which may have been left therein, and any property found therein by any person having charge of any hackney carriage, and not restored to the owner thereof within twenty-four hours, shall be delivered by the finder thereof to the Board of Police Commissioners, to be by them held and disposed of as required by law in the case of lost and stolen property. Any person violating the provision of this section shall be guilty of a misdemeanor, and shall, upon conviction, be punished by a fine not exceeding ten dollars.

1865, ch. 90. P. L. L., (1888) Art. 4, sec. 140. 1910, ch. 109.

**286.** The said Board of Police Commissioners are authorized and empowered to set aside and designate certain places in the City of Baltimore to be occupied and used as public or private stands for hackney carriages, and to stipulate the number of such carriages which may occupy or use each of such stands, and to make regulations for the occupation and use of such stands. Any person violating any of the provisions of this section or any regulation made by the said Board of Police Commissioners under the authority in this section conferred shall be guilty of a misdemeanor, and shall, upon conviction, forfeit and pay a fine of not exceeding twenty dollars.

1865, ch. 90. P. L. L., (1888) Art. 4, sec. 141.

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

**288 and 289.** Repealed by Act of 1910, Chapter 109.

P. L. L., (1860) Art. 4, sec. 148. P. L. L., (1888) Art. 4, sec. 144.

**290.** All penalties which shall be recovered for the breach of any of the provisions of this sub-division of this Article, shall be appropriated one-half to the use of the 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.

## HORSES, ETC. LIVERY STABLE CHARGES.

1865, ch. 163. P. L. L., (1888) Art. 4, sec. 145.

**291.** 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 be paid by the owner thereof.

1865, ch. 163. P. L. L., (1888) Art. 4, sec. 146.

**292.** 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.

1865, ch. 163. P. L. L., (1888) Art. 4, sec. 147.

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

## CORONERS, INQUESTS AND DEAD BODIES.

1878, ch. 347. 1890, ch. 207. P. L. L., (1888) Art. 4, sec. 149. 1892, ch. 15. 1894, ch. 84.

**294.** The Governor, by and with the advice and consent of the Senate, shall appoint and commission seven competent physicians to act as coroners for the City of Baltimore, to hold office during the period of two years, at an annual salary of one thousand dollars each, payable quarterly by the City Register; and said coroners shall be assigned to duty by the Governor, and to each of the police districts of the City of Baltimore; and it is further provided, that whenever the police districts of the City of Baltimore shall be increased in number by the order of the Board of Police Commissioners of Baltimore City, the Governor shall appoint an additional coroner for

each of the police districts so created; *provided*, that before entering upon the duties of their office, the persons appointed shall take the oath of office prescribed by the Constitution of the State of Maryland, for office-holders; and further, they shall give bond to the said State of Maryland, with security to be approved by the Judge of the Superior Court of Baltimore City, in the penalty of two thousand dollars each, conditioned for the faithful performance of their duties, as now prescribed by law, or which shall hereafter be prescribed.

Young v. College, etc., 81 Md. 358.

1872, ch. 45. P. L. L., (1888) Art. 4, sec. 150. 1898, ch. 123.  
1902, ch. 317.

**295.** In addition to the coroners provided for in the preceding section the Governor shall appoint one more coroner for the "City of Baltimore," to be known as the "Coroner at Large" for said city, whose duty it shall be to act in the place of any of the coroners who shall have been assigned to the various police districts of said city who may have been prevented by illness or enforced absence from attending to his duties; the said coroner at large shall receive the same compensation as is prescribed in the preceding section for other coroners for said city. The coroners provided for in the preceding section shall be assigned to such sub-division or district of the City of Baltimore as the Governor may direct.

P. L. L., (1860) Art. 4, sec. 153, 154. 1872, ch. 45. P. L. L., (1888)  
Art. 4, sec. 151.

**296.** The Coroner shall hold an inquest over every person found dead in his district in said city when the manner and cause of death shall not be already known as accidental, or in the course of nature. No Coroner's jury in said city shall receive any fee or compensation for services as such; and said Coroners are authorized and empowered to issue their certificates to the City Register for the payment of such expenses as may be necessary for the interment of any person over whom they, or either of them, has held an inquest, and whose body is not claimed by friends or relatives; *provided*, the amount of such expenses shall not in any case exceed the sum of seven dollars.

Blaney v. State, 74 Md. 153. Young v. College of Physicians, etc., 81 Md. 358.

1872, ch. 45. P. L. L., (1888) Art. 4, sec. 152.

**297.** Each of said Coroners shall make a monthly report to

the Police Commissioners of Baltimore City, of the number of inquests held by him during the month last past before said report, with a full description, as far as may be, of the persons who were 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 for their identification, in case of strangers and unknown persons; and each of said Coroners shall also, immediately after holding an inquest, deposit in some bank of Baltimore City, subject to the order of the Judges of the Orphans' Court of said city, all property, money and other effects found upon the person of those over whom he shall hold inquest, as hereinbefore provided.

1882, ch. 163. 1890, ch. 166. P. L. L., (1888) Art. 4, sec. 153.

**298.** Any public officer of Baltimore City or Baltimore County having charge of or control over the bodies of deceased persons required to be buried at the public expense or at the expense of any institution supported by said City or County, shall notify the chairman of the Anatomy Board, said board being composed of a demonstrator of anatomy from each medical school in the State, of the existence and possession of such bodies, and shall give permission to said Anatomy Board, through its chairman, or to any physician or surgeon of the State of Maryland upon his request made therefor, to take such bodies within forty-eight hours after death, to be by him used within the State for the advancement of medical science, preference being given to medical schools, public and private; and said bodies shall be distributed to and among the same equitably, the number assigned to each being proportioned to that of its students; *provided*, however, that if any person claiming to be and satisfying the proper authorities that he is, of kindred to the deceased, or that he was a friend to deceased during his life, shall ask to have the body for burial, it shall be surrendered for interment; or if such deceased person was a stranger or traveler who died suddenly, the body shall be buried and not handed over as aforesaid. Any public officer of Baltimore City or County having charge of or control over the bodies of the deceased persons required to be buried at the public expense or at the expense of any institution supported by said city or county, who shall neglect or refuse to comply with the requirements of this section, shall be guilty of a misdemeanor, and shall upon conviction be fined not less than fifty nor more than one hundred dollars for each and every offence.

1882, ch. 113. P. L. L., (1888) Art. 4, sec. 154.

**299.** Every physician or surgeon, before receiving any such dead body shall give to the proper authorities a sufficient bond that such body shall be used only for the promotion of medical science within the State; and whosoever shall use such body for any other purpose, or shall remove the same beyond the limits of this State, and whosoever shall sell or buy such body, or in any way traffic in the same, shall be deemed guilty of a misdemeanor, and shall, on conviction, be imprisoned for a term not exceeding five years at hard labor in the City Jail.

## COURTS.

### *Superior Court, Court of Common Pleas and Baltimore City Court.*

1870, ch. 177. P. L. L., (1888) Art. 4, sec. 155.

**300.** The Judge before whom any case may be tried in either the Baltimore City Court, the Superior Court of Baltimore City, or in the Court of Common Pleas, shall have exclusive jurisdiction to hear and determine, and the said judge shall hear and determine, all motions for a new trial where such motions arise, either on questions of fact or for misdirection upon any matters of law, and all motions in arrest of judgment, or upon any matters of law, determined by the said judge; and all such motions shall be heard and determined within thirty days after they are made.

1870, ch. 177. P. L. L., (1888) Art. 4, sec. 156.

**301.** In no case shall either the plaintiff or defendant be required to file a "paper book" of evidence or brief, in either of the courts of the City of Baltimore.

1876, ch. 96. P. L. L., (1888) Art. 4, sec. 157.

**302.** 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.

*Preston v. McCann*, 77 Md. 30.

*Powers of Superior Court.* The Superior Court has no power, under section 167 of Art. 23, Code Public General Laws, to confirm or set aside an inquisition of a Sheriff's Jury. *W. M. Tidewater R. R. Co. v. Leonard*, Daily Record, June 15, 1903.

1864, ch. 6, sec. 1. 1886, ch. 184. P. L. L., (1888) Art. 4, sec. 158.

**303.** In addition to the first day of each term of the Superior Court of Baltimore City, the Court of Common Pleas of the City of Baltimore, and the Baltimore City Court, the second Monday in February, March, April, June, July, August, October, November and December, in each year, shall be return days, and the words "return day," wherever used in this sub-division of this Article shall apply as well to the first day of each term as to the other return days herein enumerated.

1886, ch. 184. P. L. L., (1888) Art. 4, sec. 159.

**304.** All original writs, writs of execution, attachment, replevin, ejectment, *scire facias* and *habere facias*, as well as all other writs and process issued from or returnable to any of said courts, which under the practice heretofore existing would have been returnable to the first day of the term, or to a return day, shall hereafter be made returnable to the first return day after the issue of the same, or may be made returnable to the second return day thereafter, if the party by whose direction the same was issued, or his attorney, shall so request in writing.

1864, ch. 6, sec. 3. 1886, ch. 184. P. L. L., (1888) Art. 4, sec. 160.  
1894, ch. 180.

**305.** On the return of an original writ, not executed in either of said courts, the same may be renewed, returnable to the next return day thereafter, and after two returns of any original writ not executed at the two succeeding return days after the writ is first issued, the same shall be permitted to lie dormant, renewable only on the written order of the plaintiff or his attorney of record to such future return day as the said plaintiff or his attorney may elect, and upon a further return if not executed, said writ shall be again permitted to lie, renewable only as aforesaid, the said plaintiff or his attorney having the right to renew said writ to as many subsequent return days, under the same mode of procedure as may be deemed proper, until the same is executed.

1864, ch. 6, sec. 4. 1886, ch. 184. P. L. L., (1888) Art. 4, sec. 161.

**306.** After the execution of any writ or other process made returnable to a return day in either of said courts, the same proceedings may be had thereupon as if the same had been made returnable, and had been returned to a term of said court under the practice heretofore existing, except as herein-after otherwise provided.

*Exemption from service of process in civil actions:* A non-resident here for the sole purpose of attending upon the trial of a case to which he is a party, is exempted from the service of process in a civil action. But such privilege may be waived or lost by *laches*, and must be availed of at proper time by plea or motion.

Foss v. Carnell, Daily Record, January 23, 1894.

1864, ch. 6, sec. 5. 1886, ch. 184. P. L. L., (1888) Art. 4, sec. 162.

**307.** If a defendant be returned "summoned," and shall fail to appear, the clerk of the court on the day following the return day to which the writ or process served on him is returnable, shall enter the appearance of any defendant so summoned and failing to appear, and the action shall proceed in the same manner as if the party had appeared in person.

1886, ch. 184. P. L. L., (1888) Art. 4, sec. 163.

**308.** When a declaration in any action shall be filed in court, and a copy thereof delivered to the defendant before the day of the return of the writ, and the defendant shall be summoned before the said day of the return of the writ, he shall plead before the next succeeding return day, or judgment by default for want of a plea shall be entered by the court or clerk thereof, upon motion in writing made by the plaintiff, or his attorney, then, or at any time thereafter, before the filing of a plea by the defendant, unless the court for good reasons shall have granted said defendant further time to plead; and upon such entry of judgment, the plaintiff may forthwith sue out his writ of inquiry, or otherwise enter up final judgment according to the course of the court.

Cooper v. Roche, 36 Md. 563. *Cf.*, Condon v. Gore, 89 Md. 230.

The clerk has no authority to enter up a judgment for want of a plea except on motion therefor by the plaintiff or his attorney.

Griffith v. Graham, Daily Record, July 15, 1891.

Practice—time, election jury trial—rule, Supreme Bench, effect of—mode presenting rule, Court of Appeals.

Baltimore v. Thomas, 115 Md. 212.

1886, ch. 184. P. L. L., (1888) Art. 4, sec. 164.

**309.** When any action shall be brought upon a titling and the defendant shall have been summoned, the plaintiff shall file his declaration within fifteen days after the return day to which said defendant had been summoned, or judgment of *non pros.* may be entered by the court or the clerk thereof against him for want of a declaration, upon motion in writing made by the defendant at any time thereafter, unless the court for good cause shown shall grant further time; but if the plaintiff shall

have filed his declaration in any such action, at any time before the entry of a judgment of *non pros.* against him, the defendant shall be required to plead to such declaration within the time and upon the terms prescribed by the rules of the court, or judgment by default may be entered against him as provided by said rules.

1886, ch. 184. P. L. L., (1888) Art. 4, sec. 165.

**310.** Every suit in which any defendant shall be returned summoned, shall stand for trial or judgment (as against such defendant) at the return day next succeeding the day to which he has been summoned; *provided*, the declaration shall have been filed in court, and a copy thereof shall have been served on the defendant, or his attorney, at least fifteen days before said return day; and all such suits in which final judgment is not entered on that day, shall then be put at the end of the trial calendar of the court in which they are brought, in the order in which they were instituted in said court, and shall be finally disposed of as far as possible when reached in their regular course.

1886, ch. 184. P. L. L., (1888) Art. 4, sec. 166.

**311.** In all cases in which a party by law would be entitled to a continuance, the court may, instead of continuing the cause to the next term, postpone the same for thirty days, or such other period as will best subserve the interests of justice.

Smithson v. U. S. Telegraph Co., 29 Md. 165.

### SPEEDY JUDGMENT ACT.

1858, ch. 323. 1864, ch. 6, sec. 7. 1886, ch. 184, sec. 170. P. L. L., (1888) Art. 4, sec. 167. 1894, ch. 173.

**312.** In any suit, when the cause of action is a contract, whether in writing or not, or whether expressed or implied, the plaintiff, if affidavit or affirmation be made, as hereinafter stated, shall be entitled to judgment to be entered by the Court or the clerk thereof, on motion, in writing, at any time after fifteen days from the return day to which the defendant shall have been summoned, although the defendant may have pleaded, unless such plea contains a good defence and unless the defendant or some one in his behalf shall, under oath or affirmation, state every plea so pleaded by the defendant is true; and shall further state the amount of plaintiff's demand, if anything, admitted to be due or owing, and the amount disputed, and further, that the affiant verily believes the defendant



will be able at the trial of the cause to produce sufficient evidence to support the plea as to the portion disputed, and that he is advised by counsel to file the said plea; and such plea shall be accompanied by a certificate of counsel that he so advised the party making such oath or affirmation, and if the copartnership or incorporation of any of the parties to the suit shall be alleged in the declaration and the affidavit to be filed therewith, as hereinafter provided; or if there shall be filed with the declaration in said cause, any paper purporting to be signed by any defendant therein, the fact of such alleged copartnership or incorporation, and the genuineness of such signature shall be deemed to be admitted for the purposes of said cause, unless the said affidavit shall further state that the affiant knows, or has good reason to believe, such allegation of copartnership or incorporation to be untrue, or that such signature was not written by or by the authority of the person whose signature it purports to be. In case any part of the debt or damages claimed to be admitted to be due, the plaintiff shall be entitled forthwith to an entry of judgment therefor, with costs in the discretion of the court, to the time of entry of such judgment, and if the amount so admitted to be due shall not be below the jurisdiction of the court, the plaintiff may at once have execution therefor, and upon such entry of judgment the plaintiff may join issue or reply to the pleas as to the disputed portion, and the case shall be proceeded with as to such disputed portion in the same manner as if the suit had been originally instituted for the recovery of the same; and the court shall have jurisdiction as to such disputed portion in all cases where the amount originally claimed shall be within the jurisdiction of the court, but if either judgment in the case be below the jurisdiction of the court, no execution shall issue from that court on the same, and the provisions of section 17 of Article 26 of the Code of Public General Laws shall apply thereto; yet if the sum of the two judgments shall equal such jurisdiction they may then be included in an execution issued from that court; *provided*, that the court for good cause shown, may, by its order in writing, passed at any time before judgment, extend the time for filing such pleas and affidavits, which extension shall suspend, until the expiration thereof, the plaintiff's right to enter judgment under this section.

Smithson v. U. S. Telg. Co., 29 Md. 162. Jones v. Freeman, 29 Md. 273. State use of Bouldin v. Steibel, 31 Md. 34. Knickerbocker Ice Co. v. Hoeske, 32 Md. 317. King v. Hicks, 32 Md. 460. Jones v. Barnett, 35 Md. 258. Keen v. Whittington, 40 Md. 489. Baltimore v. Ideson, 47 Md. 542. Traber v. Traber, 50 Md. 1. Thorne v. Fox, 67 Md. 67. Adler

v. Crook, 68 Md. 494. Hutton v. Marx, 69 Md. 252. May v. Wolvinton, 69 Md. 117. Thillman v. Shadrick, 69 Md. 528. Gemmill v. Davis, 71 Md. 458. Huntington v. Emery, 74 Md. 67. Baltimore Pub. Co. v. Hooper, 76 Md. 115. Sanborn v. Mullen, 77 Md. 480. Laubheimer v. Nail, 88 Md. 174. Griffith v. Adams, 95 Md. 175. Singer v. Fidelity & Dept. Co., 96 Md. 224. Farmers, etc. Bank v. Hunter, 97 Md. 148. Horner v. Plumley, 97 Md. 277. Codd Co. v. Parker, 97 Md. 323-325. Smith v. Hallwood Cash Reg. Co., 97 Md. 354. Nicholson v. Snyder, 97 Md. 419. Deved v. Carrington, 98 Md. 378. Abbott v. Bowers, 98 Md. 525. Steuart v. Chappell, 98 Md. 530. Colbourn Bros. v. Boulton, 100 Md. 353, 354. Miller v. Michaels, 101 Md. 188. Commonwealth Bank v. Kirkland, 102 Md. 662. See note, page 219, Baltimore City Code (1879).

#### NOTES OF DECISIONS OF BALTIMORE CITY COURTS.

(1) The affidavit required of defendants, does not apply to those cases in which the defendants are executors.

(2) The Baltimore City Court has jurisdiction over a suit to recover the even sum of \$100.00, when interest thereon is recoverable as of right. Mutual Life Ins. Co. v. Hantske, Daily Record, December 15, 1900.

(3) *Practice Act of Baltimore City*: A special count which states no express contract to pay money, or any facts from which such a contract can be implied, cannot be filed with the common counts under the Practice Act of Baltimore City. Murray v. Revel, Daily Record, January 10, 1899.

(5) *Declaration*: A declaration filed under Act 1886, ch. 184, made before a Justice of Peace in another state and not having attached to it a certificate of the Judge of the Court according to the Act of Congress, is defective and a judgment of *non pros.* will be allowed on motion. Downs v. Appold, Daily Record, October 19, 1892.

(6) The declaration and affidavit must agree, otherwise a motion to strike out the judgment will prevail. Griffith v. Graham, Daily Record, July 15, 1891.

Upon demand for Bill of Particulars, defendant entitled to have order extending time to plead.

Newbold v. Green, 122 Md. 649. (See Act 1914, ch. 378).

Pleas were withdrawn and new pleas substituted by permission of Court, to which plaintiff filed replication and proceeded to trial. Held, that the replication and the proceeding with the trial amounted to a waiver by the plaintiff of the right to raise on appeal the question of the correctness of the ruling. The proper course would have been for the plaintiff to decline to file the replication, and to suffer judgment by default, from which judgment an appeal can be taken.

Shoop v. F. & D. Co., 124 Md. 130.

1864, ch. 6, sec. 8. 1886, ch. 184, sec. 171. P. L. L., (1888) Art. 4, sec. 168.

**313.** The plaintiff shall not be entitled to judgment under the preceding section, unless at the time of bringing his action he shall file with his declaration an affidavit or affirmation, if the affiant is conscientiously scrupulous as to taking an oath, stating the true amount 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; or if the action be founded upon a verbal or implied contract, shall file a statement of the particulars of the defendant's indebtedness thereunder. If there are two or more plaintiffs, the said affidavit or affirmation, may be made by any one of them, or if all the plaintiffs be absent from the State at the time of the bringing of said suit, or if the plaintiff be a corporation, the said affidavit or affirmation may be made by an agent of plaintiff or plaintiffs, or any of them, who will make further oath or affirmation that he has personal knowledge of the matters therein stated; and the said affirmation or affidavit 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.

Mailhouse v. Inloes, 18 Md. 332. Griffin v. Leslie, 20 Md. 15. Smithson v. The United States Telegraph Co., 29 Md. 165. Jones v. Freeman, 29 Md. 276. Greff v. Fickey, 30 Md. 79. State v. Steibel, 31 Md. 37. Knickerbocker Life Ins. Co. of New York v. Hoeske, 32 Md. 318. McAllister v. Eichengreen, 34 Md. 56. Norris v. Wrenschall, 34 Md. 499. Canton Nat. Bldg. Ass'n v. Weber, 34 Md. 671. Jones v. Barnett, 35 Md. 260. Ingalls v. Crouch, 35 Md. 296. Keene v. Whittington & Co., 40 Md. 497. Loney v. Bailey, 43 Md. 10. McSherry v. Brooks, 46 Md. 122. Mayor v. Ideson, 47 Md. 542. De Atley v. Senior, 55 Md. 479. Parkhurst v. Citizens Nat. Bank, 61 Md. 254. The Orient Mutual Insurance Co. v. Andrews, 66 Md. 371. Thorne v. Fox, 67 Md. 67. Thillman v. Shadrick, 69 Md. 528. Gemmill v. Davis, 71 Md. 458. Balto. Pub. Co. v. Hooper, 76 Md. 165. Laubheimer v. Nail, 88 Md. 174. Singer v. Fidelity & Deposit Co., 96 Md. 224. Smith v. Hallwood Cash Reg. Co., 97 Md. 354. Nicholson v. Snyder, 97 Md. 419. Deved v. Carrington, 98 Md. 378. Abbott v. Bowers, 98 Md. 525. Colbourn v. Boulton, 100 Md. 357.

In connection with the provisions of section 313, *see further*: Wilson v. Wilson, 8 Gill 192. Cumberland Coal & Iron Co. v. Hoffman Steam Coal Co., 22 Md. 499. Warwick v. Chase, 23 Md. 154. Evesson v. Selby, 32 Md. 345. The Universal Life Ins. Co. v. Bachus, 51 Md. 31. Horner v. Plumley, 97 Md. 271.

1864, ch. 6, sec. 9. 1886, ch. 184. P. L. L., (1888) Art. 4, sec. 169.  
1894, ch. 184.

**314.** When any judgment by default shall be entered under any of the preceding sections, the court may assess the damages on proof thereof without empanelling a jury to do so, unless the defendant shall have filed a motion in writing before the entry of such default for a jury trial, and shall have stated in such motion how much of the plaintiff's demand is disputed, and how much thereof, if any, is admitted by such defendant to be due, and in such case the plaintiff may forthwith have

judgment entered up for the amount so admitted, as provided in the preceding section.

Mailhouse v. Inloes, 18 Md. 332, 333. Knickerbocker Ice Co. v. Hoeske, 32 Md. 317. Norris v. Wrenschall, 34 Md. 492. Laubheimer v. Nail, 88 Md. 174. Singer v. Fidelity & Deposit Co., 96 Md. 224. Colbourn v. Boulton, 100 Md. 358.

*Judgment by Default:* Joint liability after judgment by default. *In assumpsit* against two or more persons sued jointly, the defendants on inquisition, after judgment by default, cannot deny their joint liability. Santa Clara Mining Co. v. Williams, Daily Record, March 8, 1894.

1890, ch. 433. P. L. L., (1888) Art. 4, sec. 169A.

**315.** If the defendant shall dispute the whole or any part of the plaintiff's demand in any action brought under the provisions of the three foregoing sections, and upon trial of the case the plaintiff shall recover a judgment for any portion of his demand so disputed, then the plaintiff shall be allowed in addition to the costs of the suit, reasonable counsel fees, to be fixed by the court, said fees not to be less than twenty-five dollars nor more than one hundred dollars.

As to provisions of Section 315 relating to counsel fees, *see*, Singer v. Fidelity and Deposit Co., 96 Md. 224.

1908, ch. 644.

**315A.** In all cases brought under the provisions of section 312 of said Article 4 of the Code of Public Local Laws of Maryland, as repealed and re-enacted by Act of Assembly of 1898, chapter 123, where the verdict of the jury or the court, sitting as a jury shall be for the defendant, the defendant shall be allowed, in addition to his costs of suit, reasonable counsel fees, not to be less than twenty-five dollars, nor more than one hundred dollars.

1914, ch. 107.

**315A.** If judgment be entered against any defendant for failure to appear and plead, or failure to file a sufficient plea, affidavit or certificate of counsel, under the four preceding sections, the court in which such judgment has been rendered may, upon motion filed by the defendant within thirty days after entry thereof, strike out the same and reinstate such case with leave to such defendant to file pleas, affidavit and certificate of counsel, or amend his pleas, affidavit and certificate of counsel already filed, within not exceeding ten days thereafter, whenever the court shall be of the opinion that the interests of justice will be promoted by striking out such judgment and so reinstating such case, although sufficient grounds for striking

out such judgment for fraud, deceit, irregularity or such other grounds as would have sufficed before the enactment of this section may not be present; provided, however, that the court granting such order may require as a condition thereto, that the defendant give bond with approved security for the payment of any judgment finally recovered against him in such case in such penalty as may be prescribed by the court, and that the defendant pay the costs so far incurred in said case, or any other conditions which the court may deem proper; and if any defendant who has been given leave to file pleas, affidavit or certificate, or to amend those already filed, under this section, shall fail to file a sufficient plea, affidavit or certificate of counsel, or to amend those already filed so as to be sufficient within the time so limited, then the plaintiff shall be entitled to final entry of judgment on motion therefor, in the same manner as for failure to file a sufficient plea, affidavit or certificate within the time originally limited under the preceding sections.

1886, ch. 184. P. L. L., (1888) Art. 4, sec. 170.

**316.** Bills of exception may be signed in any cause pending in any of said courts at any time within thirty days from the rendition of the verdict of the jury or the findings of the court upon the issues of fact in said cause, but not thereafter, unless the time for signing said bill of exception shall have been previously extended by order of court or by consent of parties; but nothing herein shall prevent either party from requiring the bills of exception to be signed before verdict.

Gottlieb v. Fred. W. Wolff Co., 75 Md. 126. Preston v. McCann, 77 Md. 30. Edelhoff v. Horner-Miller Co., 86 Md. 595-605. Am. Tobacco Co. v. Strickling, 88 Md. 500.

In relation to bills of exception generally, *see*: Briscoe v. Ward, 1 H. & J. 165. Dakin v. Pomeroy, 9 Gill 1. Marsh v. Hand, 35 Md. 123. Balto. Bldg. Ass'n v. Grant, 41 Md. 560. Carey v. Merryman, 46 Md. 89. Donohue v. Shadrick, 46 Md. 226. Horn v. Buck, 48 Md. 358. Rupertsburger v. Clark, 53 Md. 402. Weiskittel v. State, 61 Md. 48. Thomas v. Ford, 63 Md. 346. Mayor, &c., Westminster v. Shipley, 68 Md. 610. Bowling v. Turner, 78 Md. 595. Central Ry. Co. v. Coleman, 80 Md. 335.

1886, ch. 184. P. L. L., (1888) Art. 4, sec. 171.

**317.** Any action taken or order passed by any of said courts in relation to any judgment rendered by it, if taken or passed within thirty days after the entry of such judgment, or upon a motion or application made to it within said thirty days, shall have the same effect and force as it would have had under the practice heretofore existing in said court if taken or passed during the term, or upon a motion or application made during

the term at which said judgment was entered, and no more; but any such action taken or order passed after the expiration of thirty days from the entry of any judgment, (unless upon a motion or application made within that time), shall have the same effect and force as it would have had under such previous practice, if taken or passed after the expiration of said term, and no more; and the said courts shall respectively have, for a period of thirty days after the doing of any act or thing in any cause before them, the same revisory power and control over such act or thing which, under the practice heretofore existing, they would have had over the same during the term at which it was done, and no more; and after thirty days from the doing of any such act or thing, the said courts shall have the same revisory power and control thereover, which, under such previous practice they would have had after the expiration of the term at which said act or thing was done, and no more.

Preston v. McCann. 77 Md. 33. Laubheimer v. Johnson, 98 Md. 685.

1886, ch. 184. P. L. L., (1888) Art. 4, sec. 172.

**318.** In all cases where the pre-existing laws direct or require that any act or thing shall be done in or by any of said courts during the same term at which some other act or thing may be done or happen, such first mentioned act or thing shall hereafter be done within thirty days after the doing or happening of said last mentioned act or thing.

1867, ch. 164. 1886, ch. 184. P. L. L., (1888) Art. 4, sec. 173.

**319.** All appeals from Justices of the Peace to the Baltimore City Court shall stand for trial on the day following the return day to which the appellee shall be returned summoned, or the second return day to which the summons issued for the appellee shall be returned *non est*. But before the Baltimore City Court shall proceed to try any such appeal, the court shall first be satisfied that all costs incurred on the judgment and proceedings before the justice have been paid by the appellant.

*Appeals from Justices of the Peace.* Where a Justice of the Peace refuses to send papers to the Baltimore City Court on appeal, on writ of mandamus, said court will compel him to do so, and the court will decide whether an appeal will lie.

Stewart v. Duvall, Daily Record, March 7, 1897.

Equity has no jurisdiction over magistrate's appeals.

Mankowitz v. Pruzan, Daily Record, April 20, 1898.

1892, ch. 186. P. L. L., (1888) Art. 4, sec. 173A.

**320.** In all cases in which appeals are or may be allowed to the Baltimore City Court from the decisions of any commis-

sioners, or other persons appointed in any manner to determine any benefits or damages in any form of condemnation proceedings, for the use of the Mayor and City Council of Baltimore, it shall be lawful for the city to enter appeals in the same manner and within the same time or times allowed for their entry by other persons; and all such appeals by whomsoever prayed within the time or times limited therefor, shall be heard and determined by the Baltimore City Court as speedily as may be, each person interested being secured in his, her or its rights to a jury trial; and in case there should be more than one appeal in reference to the same piece of property, they may all be heard together, in the discretion of the court, before one jury; *provided*, a sufficient panel of jurors be furnished, so that the city and the owners or representatives of each separate interest or estate in such property may strike four names from such panel; the practice, including the right of appeal to the Court of Appeals in all such cases, shall conform as near as may be to the practice now prevailing in said court in the trial of appeals from the decisions of the Commissioners for Opening Streets.

1892, ch. 634. P. L. L., (1888) Art. 4, sec. 173B.

**321.** The Supreme Bench of Baltimore City shall annually designate two members of the said bench to sit in their respective courts, attended by their clerks, during the annual sittings of the Registers of Voters, and also on the four Saturdays immediately preceding the September session of the Registers of Voters of the City of Baltimore, for the purpose of hearing and determining applications for naturalization, and such applications shall have precedence over all other business.

1900, ch. 705.

**321A.** The Supreme Bench is authorized to adopt rules and regulations governing the subject of naturalization of aliens in the Courts of Baltimore City, and imposing a uniform scale of charges to be collected from the persons applying for naturalization to defray the expenses incident to the operation of said rules and regulations.

P. L. L., (1888) Art. 4, sec. 173A. 1894, ch. 392.

**322.** Whenever the record of proceedings in any suit, action or issue pending in one of the courts of common law in the City of Baltimore shall be directed to be transmitted for trial to some other such court of the said city, in accordance with Article 4, section 8, of the Constitution, it shall be the duty of the clerk of the court from which the said record of proceedings is so

directed to be removed, to immediately deliver to the clerk of the court to which the same is so directed to be removed, all the original papers in the said cause, together with a certified copy of all docket entries relating to the same, which original papers and copy of docket entries shall constitute such record of proceedings for the purposes of such trial; and it shall thereupon become the duty of the judge of the court to which the said suit, action or issue shall be removed immediately by special order to assign the same for trial to such day, or in sequence to such other causes, as he shall consider just and proper.

Weiskittel v. State, 58 Md. 155. De Murgiondo v. Frazier, 63 Md. 94.

### CIRCUIT COURT OF BALTIMORE CITY.

P. G. L., (1860) Art. 29, sec. 58. P. L. L., (1888) Art. 4, sec. 174.

**323.** Whenever in any case instituted in the Circuit Court a jury is asked for and allowed, or is desired by the Judge thereof, the Judge shall issue an order to the Sheriff of Baltimore City, requiring him to summon twenty jurors to attend the court, when proceedings shall be had in such cases as is usual in like cases in equity.

As to jurisdiction of this Court, *see*, Barth v. Rosenfeld, 36 Md. 604, and Orrick v. Boehme, 49 Md. 72.

*Commissions of Trustees.* Rule of the Circuit Courts of Baltimore City as to commissions to trustees for making investments of trust funds pending litigation and general management of trust funds, construed, *in re* Trust Estate Hiss, Daily Record, March 18, 1891.

*Costs in Equity.* The stenographer's *per diem* and one copy of testimony are taxable as costs in equity under the 35th equity rule. Beecher v. Baltimore Sterling Silver Co., Daily Record, January 11, 1896.

*Striking out Decrees.* The striking out of a decree before enrollment is subject to the control of the Court during the term at which a decree is passed; during such term a decree is subject to the control of the Court and liable, upon proper grounds shown by petition, to be altered or reversed. Whitelock v. Bank of Commerce, Daily Record, May 15, 1897.

*As to non-jury trials and removals of cases* from one court in Baltimore City to another, *see*, Chappell Chemical etc. Co. v. Sulphur Co., 85 Md. 684.

1874, ch. 312. P. L. L., (1888) Art. 4, sec. 175. 1888, ch. 194.

**324.** The Judge of the Circuit Court is not required to file opinions for or in respect of any final decree or decretal order, whenever such decree or order shall have passed upon argument, oral or in writing, on the part of any of the parties to a cause. This section shall apply also to the Judge of the Circuit Court Number Two of Baltimore City.



## CIRCUIT COURT NUMBER TWO OF BALTIMORE CITY.

1888, ch. 194. P. L. L., (1888) Art. 4, sec. 176.

**325.** Another court is established in and for the City of Baltimore, to be styled the Circuit Court Number Two of Baltimore City. The powers and jurisdiction of said court shall be concurrent with those now held and exercised by the Circuit Court of Baltimore City, and both of said courts shall have the same terms and return days; subject, however, to such rules and regulations for a proper distribution and apportionment of business between them as the Supreme Bench of Baltimore City shall from time to time prescribe.

*Ridgely v. Ridgely*, 79 Md. 208.

1888, ch. 194. P. L. L., (1888) Art. 4, sec. 177.

**326.** There shall be elected another Judge of the Supreme Bench of Baltimore City, 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, eighteen hundred and eighty-eight; the said Judge, when elected, to be subject to all the provisions of the Constitution relating to the Supreme Bench in Baltimore City and the several judges thereof.

For Legislative authority providing for the election of additional judges authorized by the Constitution, *see*, Act 1894, ch. 284 and Act 1896, ch. 95. *And see also*, Act 1906, ch. 234.

1888, ch. 194. P. L. L., (1888) Art. 4, sec. 178.

**327.** There shall be elected at the same election by the legal and qualified voters of Baltimore City, a clerk for said Circuit Court Number Two of Baltimore City, who shall be subject to all the provisions of the Constitution relating to the Clerk of the Circuit Court of Baltimore City.

**327A.** Repealed by Act of 1908, ch. 460.

## CRIMINAL COURT OF BALTIMORE.

P. L. L., (1860) Art. 4, sec. 175. P. L. L., (1888) Art. 4, sec. 179.

**328.** 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.

In relation to the assignment of judges of the Criminal Court to sit

separately with a separate jury for the trial of cases. *see* Jackson v. State, 87 Md. 191.

P. L. L., (1860) Art. 4, sec. 176. P. L. L., (1888) Art. 4, sec. 180.

**329.** At special sessions of said court, all cases may be tried and disposed of as at the regular terms thereof.

P. G. L., (1860) Art. 29, sec. 59. P. L. L., (1888) Art. 4, sec. 181.

**330.** The Criminal Court of Baltimore shall have jurisdiction in all cases of felony, and other crimes, offenses and misdemeanors within the City of Baltimore.

1864, ch. 50. P. L. L., (1888) Art. 4, sec. 182.

**331.** 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.

P. G. L., (1860) Art. 29, sec. 62. P. L. L., (1860) Art. 4, sec. 177.

P. L. L., (1888) Art. 4, sec. 183.

**332.** All commitments and recognizances for all felonies, crimes, offenses 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.

*Commitments.* As to defective commitments, *see, in re* Flanigan, Daily Record, December 19, 1904, and *in re* Livingstone, Daily Record, December 30, 1889; *also*, Cornish v. Warden City Jail, Daily Record, December 20, 1892. As to commitments generally, *see* Adams v. Supt. Maryland House of Refuge, Daily Record, December 3, 1903.

P. L. L., (1860) Art. 4, sec. 184. P. L. L., (1888) Art. 4, sec. 189.

**333.** It shall be the duty of the Sheriff to make return of each *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.

P. L. L., (1860) Art. 4, sec. 185. P. L. L., (1888) Art. 4, sec. 190.

**334.** The clerk of said court and the Sheriff of 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.

P. L. L., (1860) Art. 4, sec. 186. P. L. L., (1888) Art. 4, sec. 191.

**335.** 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.

P. L. L., (1860) Art. 4, sec. 187. P. L. L., (1888) Art. 4, sec. 192.

**336.** 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.

P. L. L., (1860) Art. 4, sec. 188. P. L. L., (1888) Art. 4, sec. 193.

**337.** 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.

P. L. L., (1860) Art. 4, sec. 189. P. L. L., (1888) Art. 4, sec. 194.

**338.** The Sheriff of said city shall be subject to a penalty of five dollars in each case in which returns are not made within the time prescribed in this sub-division of this Article.

1890, ch. 250. P. L. L., (1888) Art. 4, sec. 194A.

**339.** Witnesses appearing before the Grand Jury shall be sworn in the presence of the Grand Jury by the foreman or by some other member appointed by the foreman for that purpose.

P. G. L., (1860) Art. 29, sec. 64. P. L. L., (1888) Art. 4, sec. 196.

**340.** In all cases of misdemeanor which may be prosecuted in said court at the instance of any person, if the party 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.

P. G. L., (1860) Art. 29, sec. 65. P. L. L., (1888) Art. 4, sec. 197.

**341.** 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 had been convicted.

1886, ch. 46. P. L. L., (1888) Art. 4, sec. 198.

**342.** The Mayor and City Council of Baltimore shall not be liable in any criminal cases tried in the Criminal Court of Baltimore for the appearance fees allowed by law to the attorney of the traverser.

P. G. L., (1860) Art. 29, sec. 66. P. L. L., (1888) Art. 4, sec. 199.

**343.** Whenever the Grand Jury shall find any presentment against any person for 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.

P. G. L., (1860) Art. 29, sec. 67. P. L. L., (1888) Art. 4, sec. 200.

**344.** If any security in any recognizance shall request to deliver up the principal, 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.

P. G. L., (1860) Art. 29, sec. 68. P. L. L., (1888) Art. 4, sec. 201.

**345.** 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 to the age of twenty-one years.

P. G. L., (1860) Art. 29, sec. 69. P. L. L., (1888) Art. 4, sec. 202.

**346.** 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.

P. G. L., (1860) Art. 29, sec. 70. P. L. L., (1860) Art. 4, sec. 132.  
P. L. L., (1888) Art. 4, sec. 203.

**347.** In all criminal cases in the said court in which bail

shall be forfeited, the person who shall have entered into such recognizance for the appearance of any traverser or prisoner shall be liable forthwith to an attachment for contempt for the non-appearance of 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.

P. G. L., (1860) Art. 29, sec. 71. P. L. L., (1860) Art. 4, sec. 133.  
P. L. L., (1888) Art. 4, sec. 204.

**348.** In all cases in which bail as aforesaid is forfeited, the court may, on the return of said attachment, order the person attached to stand committed until the amount of said recognizance is fully paid and satisfied, or may order said person 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.

*See note page 207, City Code (1879).*

1865, ch. 187. P. L. L., (1888) Art. 4, sec. 205.

**349.** 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 City in addition to the sum now allowed by law, a compensation not exceeding forty dollars in any one case, to be paid by Baltimore County to the City Register, for the benefit of the State's Attorney.

As to costs and counsel fees in removed cases *see*: Mayor, etc. v. Co. Commrs., Balto. Co., 19 Md. 554. Co. Commrs., How. Co. v. Co. Commrs., Fred. Co., 30 Md. 432. M. & C. C. of Balto. v. Co. Commrs., How. Co., 61 Md. 326. *Cf.*, *note to Wright v. Hanmer*, 5 Md. 370.

P. G. L., (1860) Art. 29, sec. 7. P. L. L., (1888) Art. 4, sec. 206.

**350.** 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., (1860) Art. 29, sec. 8. P. L. L., (1888) Art. 4, sec. 207.

**351.** 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.

## ORPHANS' COURT.

1865, ch. 169. P. L. L., (1888) Art. 4, sec. 208. 1898, ch. 256.  
1900, ch. 182.

**352.** The Judges of the Orphans' Court of Baltimore City shall receive nine dollars for every day's attendance upon the sessions of said Court, to be paid by the City of Baltimore monthly, and the sessions of said Court shall continue from 11 A. M. until 3 P. M., if necessary for the transaction of business of the Court.

1868, ch. 20. P. L. L., (1888) Art. 4, sec. 209. 1900, ch. 182.

**353.** The Bailiff of said Orphans' Court shall receive five dollars a day for each day's attendance upon said Court.

1912, ch. 167.

**353A.** Every executor or administrator within ninety days after the grant of letters, shall pay, out of the first moneys received by him, after the first cost of letters of administration, and after all taxes due from his decedent shall have been paid or determined, the funeral expenses of his decedent, to be allowed in the discretion of the Orphans' Court according to the condition and circumstances of the deceased, in no event to exceed \$300.00, and the same shall be preferred to all debts and claims against the deceased, except for taxes due and in arrear from the decedent. If the said funeral expenses be not paid within ninety days after the grant of letters testamentary or of administration, the person or corporation having a claim for such funeral expenses may present to the Orphans' Court a petition verified by oath praying that the executor or administrator may be cited to show cause why he should not be required to make such payment, and a citation shall be issued accordingly. If upon the return of said citation it shall appear that the executor or administrator has received moneys belonging to the estate, which are applicable to the payment of the claims for funeral expenses, the Orphans' Court shall, unless the validity of the claim admitted by such executor or administrator, take proof as to the amount and validity of the claim, and if satisfied that such claim is valid, shall fix and determine the amount due thereon, and shall make an order directing the payment within ten days after the date of such order and service of a copy thereof upon such executor or administrator of such claim or such proportion thereof as the money in the hands of the executor or administrator applicable thereto may be sufficient to satisfy. If it shall appear that no money has come into the

hands of the executor or administrator, the proceeding shall be dismissed without costs in the discretion of the Court and without prejudice to a further application or applications showing that since such dismissal the executor or administrator has received money belonging to the estate. Such application shall be made upon a petition verified by oath stating the facts upon which the belief of the petitioner, that there are moneys in the hands of such executor or administrator applicable to the payment of his claim, is based. Upon such further application the issuance of the citation shall be in the discretion of the Orphans' Court, and no such application shall be made less than three months after the denial of any previous application. If upon any accounting it shall appear that an executor or administrator has failed to pay a claim for funeral expenses, the amount of which has been fixed and determined by the Orphans' Court as above set forth or upon such accounting he shall not be allowed for the payment of any debt or claim against the decedent until said claim for funeral expenses has been discharged in full; and upon failure of any executor or administrator to pay any claim for funeral expenses, after an order so to do, he may, upon application, be removed.

### REGISTER OF WILLS.

P. L. L., (1860) Art. 4, sec. 824. P. L. L., (1888) Art. 4, sec. 210.

**354.** The Register of Wills of Baltimore City, upon his election or appointment, and at and 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 of the State, and when approved, to be filed in his office.

As to commissions, *see*, *Banks v. State*, 60 Md. 305.

1908, ch. 118.

**354A.** The Register of Wills of Baltimore City shall immediately after the enactment of this bill into law appoint two general appraisers, to appraise the goods, chattels and personal estate of all estates under administration in the Orphans' Court of Baltimore City, who shall serve the entire term of the present Register of Wills, unless their places shall become vacant by removal from cause, death, resignation or otherwise; and thereafter when any other Register shall be elected or appointed, he

shall in like manner appoint four appraisers for his full term of office. The said appraisers shall appraise the goods, chattels and personal estates of all decedents under administration in the Orphans' Court of Baltimore City; and shall in each case make the charges therefor now allowed by law and certify the same to the Register of Wills; they shall receive an annual salary of sixteen hundred dollars each, to be paid by said Register out of the fees of the office returned by said appraisers. The said Register shall keep an accurate account of all moneys received for such appraisements, and shall account for and pay the same except the amount required to pay the salaries of said appraisers into the State Treasury, as he is now required by law to account for and pay other moneys for which he is accountable to the State.

P. L. L., (1860) Art. 4, sec. 825. P. L. L., (1888) Art. 4, sec. 211.

**355.** 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.

P. L. L., (1860) Art. 4, sec. 826. P. L. L., (1888) Art. 4, sec. 212.

**356.** 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 25th and 41st sections of the 4th Article of the Constitution, and subject to the term and service therein prescribed.

#### CLERKS OF THE LAW COURTS OF BALTIMORE CITY.

P. G. L., (1860) Art. 18, secs. 66, 71. 1867, ch. 401. P. L. L., (1888) Art. 4, sec. 213.

**357.** The Clerk of the Superior Court of Baltimore City shall give bond to the State of Maryland in the sum of thirty thousand dollars; the Clerk of the Court of Common Pleas in the sum of fifty thousand dollars, and the Clerk of the Baltimore City Court in the sum of twenty thousand dollars, each of said bonds conditioned for the faithful performance of all the duties



now required of each of said clerks by law, with sufficient securities; the sufficiency of which securities shall be certified to by the Judge of each of said courts, and approved by the Comptroller of the State as herein directed.

Vansant v. State, 96 Md. 110. Amer. Bonding Co. v. Mechanics Bank, 97 Md. 604.

Bond of Clerk of Court is liable for salaries of his deputies. State use of Smith v. Turner, 101 Md. 584.

*Powers of Clerks of Law Courts of Baltimore City.* Sections 11 and 15 of Article IV of the Constitution of 1851 confer the powers of the Clerk of the Baltimore County Court on the Clerks of the Court of Common Pleas and the Superior Court; all doubts on this point are removed by Acts of 1886, ch. 154 and 1884, ch. 233. B. & O. R. R. Co. v. Smith, Daily Record, March 27, 1890.

P. G. L., (1860) Art. 18, sec. 67. P. L. L., (1888) Art. 4, sec. 214.

**358.** When the sufficiency of the securities in each of said bonds is certified to by the judges of the several courts, the bonds shall be immediately recorded among the proceedings of the court to which the said clerk belongs, and then sent to the Comptroller for his approval; and if the Comptroller shall approve said bonds and securities he shall certify the same to the judges of said several courts, and such certificates shall be recorded in such respective courts.

P. G. L., (1860) Art. 18, sec. 68. P. L. L., (1888) Art. 4, sec. 215.

**359.** Each of said clerks shall every second year renew his said bond in the same penalty, and with securities to be certified and approved as hereinbefore directed.

P. G. L., (1860) Art. 18, sec. 69. P. L. L., (1888) Art. 4, sec. 216.

**360.** If any one of the clerks of said courts shall fail to give bond as hereinbefore 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.

Dowling v. Smith, 9 Md. 242.

See note to sec. 54, Art. XIV, page 210, Baltimore City Local Code (1879).

P. G. L., (1860) Art. 18, sec. 70. P. L. L., (1888) Art. 4, sec. 217.

**361.** No deputy or assistant of a clerk shall become a surety on his official bond.

1864, ch. 74. 1864, ch. 385. P. L. L., (1888) Art. 4, sec. 218.

**362.** The Clerks of the Superior Court of Baltimore City, of the Common Pleas, and Baltimore City Court are each authorized and required to prepare an index of all judgments rendered in the courts aforesaid; and they shall severally, on each day after the adjournment of court, enter in a book to be provided for that purpose, an index of each judgment rendered in the court whereof he is clerk; and they are authorized severally to charge and receive ten cents for each judgment indexed as aforesaid; said fee to be taxed in the bill of costs of each case in which judgment is entered—to be collected as other fees are now collected.

P. G. L., (1860) Art. 18, sec. 73. P. L. L., (1888) Art. 4, sec. 218.

**363.** All the provisions of sections 61-66 inclusive of Article 17 of the Code of Public General Laws, title "Clerks of Courts," sub-title "Clerks of the Circuit Courts," relating to the obtaining of blank licenses, granting the same and returning an account thereof to the Comptroller by the clerks of the circuit courts for the counties, shall apply to the Clerk of the Court of Common Pleas, and it shall be his duty to comply with such provisions.

1890, ch. 630. P. L. L., (1888) Art. 4, sec. 218A. 1896, ch. 435.

**364.** The Clerk of the Superior Court of Baltimore City is authorized and empowered to have fair and legible copies made of such land record books in his custody of the classes and description hereinafter named, as have become worn, mutilated or illegible, that is to say, fifty-six volumes of the said land record books, of a date prior to the year eighteen hundred; five volumes of the series of land record books known as "W. G." and eight volumes of the said land record books, of the series known as "E. D."

1898, ch. 146.

**364a.** It shall be the duty of the Clerk of the Superior Court of Baltimore City, as soon as practicable after the passage of this Act, to make and prepare for use in his office new indexes of all land records and conveyances in his keeping between the years 1864 and 1886, and rearrange them in accordance with the modern system, as now used in his office for the current work.

1902, ch. 189.

**364b.** The Clerk of the Superior Court of Baltimore City is

hereby authorized to prepare a set of indexes, upon the block system, or general index plan, now in use in his office, as may appear to be most practicable, for the land records covering the period between the years 1851 and 1888.

1890, ch. 630. P. L. L., (1888) Art. 4, sec. 218B.

**365.** A copy made in pursuance of the provisions of the preceding sections, and compared and certified under oath by the said Clerk of the Superior Court of Baltimore City, to be a true copy, shall have the same force and effect when deposited among the said land records of said city, as if it were an original record.

1890, ch. 630. P. L. L., (1888) Art. 4, sec. 218C.

**366.** After the aforesaid copies shall have been duly made as above provided, the original land record books so replaced shall be removed to some place of safe keeping by the said Clerk of the Superior Court of Baltimore City, and carefully preserved, and only exhibited or allowed to be inspected upon an order of court, or in the discretion of the said Clerk of the Superior Court of Baltimore City.

#### CLERK OF THE CRIMINAL COURT OF BALTIMORE.

P. G. L., (1860) Art. 18, sec. 74. P. L. L., (1888) Art. 4, sec. 219.

**367.** 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 security, 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.

P. G. L., (1860) Art. 18, sec. 75. P. L. L., (1888) Art. 4, sec. 220.

**368.** 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.

#### CLERK OF THE CIRCUIT COURT OF BALTIMORE CITY, AND OF THE CIRCUIT COURT NUMBER TWO OF BALTIMORE CITY.

P. G. L., (1860) Art. 18, sec. 76. 1888, ch. 194. P. L. L., (1888) Art. 4, sec. 221.

**369.** The Clerk of the Circuit Court of Baltimore City, and

of the Circuit Court Number Two of Baltimore City, shall respectively 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 courts.

### SALARIES OF CLERKS OF COURTS.

1868, ch. 54. P. L. L., (1888) Art. 4, sec. 222.

**370.** Whenever the fees or other compensation of any of the clerks of the courts of Baltimore City shall, after the payment of all necessary expenses, fail to pay such officers the salary provided for by the Constitution, and any of said clerks shall, under section 1st, Article 15, of the Constitution, have paid to the State any sum of money as excess, after retaining his salary, such excess is appropriated to the payment of the salary 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 whole amount so in arrears, and not to exceed the whole amount of said excess paid into the treasury of the State.

1896, ch. 438. 1912, ch. 343.

**371.** The Comptroller of the State of Maryland be and he is hereby directed to draw a warrant upon the State Treasurer for the payment of the sum of twenty-five hundred dollars per annum in each and every year, in quarterly installments of six hundred and twenty-five dollars at the end of each and every quarter, for the compensation of the trust clerk designated by the Supreme Bench of Baltimore City in the offices of the Circuit Court of Baltimore City and Circuit Court No. 2 of Baltimore City, for the supervision of the trust estates in said courts, payment of said salaries to be made out of any money paid by the clerks of the several courts of Baltimore City into the State Treasury, and on the certificate of some one of the judges of the Supreme Bench of Baltimore City that such trust clerk has performed his duties for the time so certified by said judge; the clerk of the Circuit Court of Baltimore and of the Circuit Court No. 2 of Baltimore City be and they are hereby authorized and directed to appoint a chief clerk for each of their respective Courts, said appointment to be subject to confirmation by the Supreme Bench of Baltimore City; and when said appointments have been so made and confirmed the Comptroller of the State of Maryland be and he is hereby directed to draw

two warrants upon the State Treasurer, each for the payment of the sum of two thousand five hundred dollars per annum in each and every year in quarterly installments of six hundred and twenty-five dollars at the end of each and every quarter, for the compensation of each of the two chief clerks so appointed and confirmed.

## CRIERS, BAILIFFS, WATCHMEN AND STENOGRAPHERS.

P. L. L., (1860) Art. 4, sec. 134. 1888, ch. 194. P. L. L., (1888)  
Art. 4, sec. 223.

**372.** The Clerks of the Circuit Court, Circuit Court Number Two, the Criminal Court, the Court of Common Pleas, the City Court and the Superior Court of Baltimore City shall severally, at the end of every month, certify to the Mayor and Register of the city the amount due the several bailiffs and criers of their respective courts, and the Mayor and Register shall pay them accordingly.

1864, ch. 113. P. L. L., (1888) Art. 4, sec. 224.

**373.** The City Register shall pay to the crier of the Superior Court of Baltimore City, the crier of the Baltimore City Court, and the crier of the Court of Common Pleas of Baltimore City the sum of fifteen hundred dollars per annum, in monthly installments of one hundred and twenty-five dollars at the end of each and every month, as and for their respective salaries, on the certificates of said clerks of the said courts that said criers have performed their several duties as criers of said courts for the time so certified by said clerks.

1870, ch. 94. 1888, ch. 194. P. L. L., (1888) Art. 4, sec. 225.

**374.** The City Register shall pay to the bailiffs, respectively, of the Superior Court of Baltimore City, of the Court of Common Pleas of Baltimore City, of the Baltimore City Court, of the Circuit Court of Baltimore City, of the Circuit Court Number Two of Baltimore City and of the Criminal Court of Baltimore City the sum of fifteen hundred dollars per annum, as and for their respective salaries, at the same time and in the same manner as is provided in the preceding section for the payment of the salaries of the crier of the Superior Court, the crier of the Baltimore City Court and the crier of the Court of Common Pleas of Baltimore City.

1872, ch. 87. 1888, ch. 194. P. L. L., (1888) Art. 4, sec. 226.

**375.** The Clerk of the Circuit Court of Baltimore City and the Clerk of the Circuit Court Number Two of Baltimore City are respectively authorized and empowered to appoint a night-watchman, whose duty shall be to strictly and vigilantly guard throughout the year, between the hours of six P. M. and seven A. M., the records and papers deposited in their respective offices, and who shall be removed in the discretion of the said clerks, respectively, for neglect or carelessness in the discharge of his duties, or for other good and sufficient cause.

1872, ch. 87. 1888, ch. 194. P. L. L., (1888) Art. 4, sec. 227.

**376.** The City Register shall pay to the said watchman the sum of nine hundred dollars per annum, as and for their respective salaries, in the same manner as is provided for the payment of the salaries of the bailiffs of the Courts.

1878, ch. 479. P. L. L., (1888) Art. 4, sec. 228.

**377.** The Clerk of the Court of Common Pleas in Baltimore City is authorized and empowered to appoint a night watchman, whose duty it shall be to strictly and vigilantly guard, throughout the year, the records and papers deposited in the office of the Clerk of the Court of Common Pleas, and who shall be removed, in the discretion of the said clerk, for neglect or carelessness in the discharge of his duties, or for other good and sufficient cause.

1878, ch. 479. P. L. L., (1888) Art. 4, sec. 229.

**378.** The City Register shall pay to the said watchman the sum of eighty-three dollars and thirty-three cents per month, as and for his salary, in the same manner as is provided for the payment of the salaries of the bailiffs of the courts.

1867, ch. 373. 1892, ch. 122. P. L. L., (1888) Art. 4, sec. 230.  
1908, ch. 476.

**379.** The judges of the Supreme Bench of Baltimore City are authorized and directed to appoint from time to time as many court stenographers, not exceeding in number altogether the number of said judges, as shall in their discretion be required for the services of the several courts of Baltimore City, who shall be sworn officers of the court, and shall each be paid a salary of eighteen hundred dollars per annum when such stenographers shall be required to attend the courts regularly, or ten dollars per diem for each day of actual employment when he

shall be appointed to attend only when his services shall be specially required by the judges; the said salaries to be paid in like manner as the salaries of the other officers of the courts are now paid, as prescribed in section 372.

1867, ch. 373. P. L. L., (1888) Art. 4, sec. 231. 1892, ch. 122.

**380.** Each of the stenographers so appointed shall be skilled in the practice of his art, and shall hold his position during the pleasure of the Supreme Bench. It shall be his duty, under the direction of the judge of the court to which he may be assigned for the time being, to take full stenographic notes of all oral testimony and judicial opinions orally delivered in every judicial proceeding; and it shall be his duty to furnish to any party to such proceeding, upon request, a typewritten copy of the notes of testimony and judicial opinions so taken by him, or of such part thereof as may be required, on payment by such party of the expenses of such copy, at such rates as shall be fixed by rule of court at the time. Whenever any judge shall be satisfied that a copy of all or any part of the stenographic notes of testimony or judicial opinions, taken during any judicial proceeding at which he presided, is necessary for the purpose of justice, he shall under such rules as shall be prescribed by the Supreme Bench, pass an order that the expense of making a copy of such part of said stenographic notes as he shall specify in said order shall be deemed a necessary disbursement of the proceeding, and allowed as such to the prevailing party, and it shall be so taxed in the bill of cost, but shall be paid in the first instance as shall be directed in said order.

1867, ch. 373. P. L. L., (1888) Art. 4, sec. 232.

**381.** The Judges of the Orphans' Court of the City of Baltimore are 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 to the proceedings 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 transcriptions, 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 the Code of Public General Laws.

Cannon v. Crook, 32 Md. 483. Denison v. Denison, 35 Md. 370.

1867, ch. 373. P. L. L., (1888) Art. 4, sec. 233.

**382.** 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.

#### SHERIFF.

**383.** Repealed by Act of 1912, ch. 202.

1861, ch. 55. P. L. L., (1888) Art. 4, sec. 235.

**384.** Any officer may send out his fees on execution at any time during the year.

1861, ch. 53. P. L. L., (1888) Art. 4, sec. 236.

**385.** The Sheriff shall collect the fees due to the following officers, which may be placed in his hands for collection, namely: attorneys, clerks of all the courts, commissioner of the land office, coroners, criers, registers of wills, surveyors and sheriffs.



1861, ch. 53. P. L. L., (1888) Art. 4, sec. 237.

**386.** 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, DOCKET ENTRIES, RECORDS.

1878, ch. 28. P. L. L., (1888) Art. 4, sec. 238. 1898, ch. 123.  
1900, ch. 279.

**387.** Witnesses attending any of the Courts of Baltimore City, except the Criminal Court of Baltimore, shall be entitled to fifty cents a day, and in the Criminal Court shall not be entitled to said allowance, except by the express order of the Court, and only in such cases as the Court in its discretion may deem proper. But any of the Courts of Baltimore City may, in its discretion, allow itinerant charges to out-of-town witnesses.

1884, ch. 23. P. L. L., (1888) Art. 4, sec. 239.

**388.** In any suit now pending, or hereafter to depend, in any court in the City of Baltimore, wherein a transcript of the record of any cause in any other court in the City of Baltimore might be offered in evidence, it shall be sufficient to produce the docket entries and original papers and proceedings in said last-mentioned cause, or the record book in which the same have been recorded, and if required by law to be recorded, and actually recorded, and offer the same in evidence; and the same, when so produced and offered in evidence, shall have the same effect, to all intents and purposes, as a transcript of the record thereof, under the seal of the court wherein the same are; and such production may be had by any party to a suit upon a *subpoena duces tecum* issued to the clerk of the court wherein such docket entries, original papers and proceedings may be.

Kilbourn v. Goldsmith, 46 Md. 289.

#### COSTS.

1882, ch. 354. P. L. L., (1860) Art. 4, sec. 159½.  
P. L. L., (1888) Art. 4, sec. 240.

**389.** In all actions at law for wrongs, independent of contracts, in any of the courts of Baltimore City, where the verdict or inquisition of damages after default made shall be for a sum less than fifty dollars, the costs shall be adjudged to the defendant, unless the Court shall otherwise determine; but the

Court, before allowing costs to the plaintiff in such case, shall be satisfied that he had good reason for not bringing suit before a Justice of the Peace; and in all cases of appeals whatsoever from judgments of Justices of the Peace in Baltimore City, costs shall be allowed to plaintiff or defendant, in the discretion of the Court; *provided*, that in all cases involving the title to real estate, wherein the verdict or judgment is for the plaintiff, he shall be allowed his costs.

*Repp v. Berger*, 60 Md. 1.

*Costs*. As to allowance for costs of depositions rendered unnecessary by the appearance of party at trial, *see*,

*Dorsey v. Heinzerling*, Daily Record, October 18, 1897.

A rule *security for costs* will not be laid against a non-resident legal defendant when there is a resident equitable defendant liable for such costs under the statute.

*Kellog v. Bokee*, Daily Record, December 7, 1898.

As to attachment for costs, *see*, *Matthews v. Davidson*, Daily Record, June 17, 1891.

390. Repealed by Act 1902, ch. 496.

391. Repealed by Act 1902, ch. 496.

392. Repealed by Act 1902, ch. 496.

393. Repealed by Act 1902, ch. 496.

394. Repealed by Act 1902, ch. 496.

#### DEAF, DUMB AND BLIND.

P. G. L., (1860) Art. 33, sec. 1. P. L. L., (1888) Art. 4, sec. 246.

395. It shall be 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 person, or 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.

P. G. L., (1860) Art. 33, sec. 2. 1865, ch. 68. 1870, ch. 478.

P. L. L., (1888) Art. 4, sec. 247.

**396.** On receiving the certificate of the Mayor and City Council of Baltimore as aforesaid, it shall be the duty of the Governor to authorize the instruction of said deaf and dumb person in the Maryland Institute for the Education of the Deaf and Dumb, located at Frederick, for a term not exceeding seven years; and it shall be the further duty of the Governor, on the certificate of the President of said institution that such deaf and dumb person has been taught at said institution, to order the Comptroller of the Treasury to draw his warrant on the Treasurer of the 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 State 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 sub-division 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.

P. G. L., (1860) Art. 33, sec. 3. 1868, ch. 205. 1886, ch. 278.

P. L. L., (1888) Art. 4, sec. 248.

**397.** A sum not exceeding twenty-one thousand dollars shall be and is hereby annually appropriated, to be applied, under the direction of the Governor, in placing for instruction in the Maryland Institute 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, to the Governor by the county commissioners of each county, or the judges of the Orphans' Court of Baltimore City.

P. G. L., (1860) Art. 33, sec. 4. P. L. L., (1888) Art. 4, sec. 249.

**398.** 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.

1865, ch. 75. 1886, ch. 278. P. L. L., (1888) Art. 4, sec. 250.

**399.** 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.

P. G. L., (1860) Art. 33, sec. 6. P. L. L. (1888) Art. 4, sec. 251.

**400.** 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 sub-division of this Article and the names, ages and places of residence of the different applicants.

1912, ch. 71.

**400a.** That the Mayor and City Council of Baltimore be and it is hereby authorized and empowered to appropriate for the Maryland Workshop for the Blind a sum not exceeding five thousand dollars (\$5,000.00) annually, to aid in the maintenance of the work of that institution.

#### DESTROYING PROPERTY MALICIOUSLY.

P. L. L., (1888) Art. 4, sec. 251A. 1896, ch. 270.

**401.** If any person shall maliciously cut, disfigure, mutilate, damage, destroy or otherwise injure any goods, wares, materials or merchandise intended to be manufactured, made up or converted into garments, wearing apparel or other articles of merchandise, and belonging to any other person, or shall maliciously cut, disfigure or otherwise injure any garments, wearing apparel or other articles of merchandise belonging to any other person, or shall cause the same to be done, or shall by any means cause or incite any person to do the same, upon conviction thereof, before any tribunal of competent jurisdiction, he shall be fined not more than fifty dollars, or to be sentenced to imprisonment in the House of Correction for not more than six months, or both fined and imprisoned in the discretion of the court.

**402-425.** Sections 402 to 425 both inclusive, repealed by Act 1902, ch. 296.

This act (1902, ch. 296) repeals the Local Law upon the subject of Elections, and by supplementing Art. 33 of the Public General Laws provides for elections in Baltimore City.

## EXAMINING ENGINEERS.

1892, ch. 448. P. L. L., (1888) Art. 4, sec. 297A.

**426.** The Governor shall biennially appoint, in and for the City of Baltimore, two engineers who have had not less than ten years practical experience in running steam engines, boilers and appliances pertaining to stationary or portable engines, and who have been residents of this State for not less than five years next preceding the date of their appointment, who shall constitute and be known as the "Board of Examining Engineers." The parties so appointed, before entering on their duties, shall make oath before a Justice of the Peace that they will faithfully perform the duties of their office without fear, partiality or favor; and that they will not, during their term of office, accept any money, gift, gratuity or consideration from any person, and shall give bond to be approved by the Comptroller of the State, in the sum of three thousand dollars each, for the faithful discharge of their duties; and before entering on said discharge of their said duties, the said inspectors shall provide themselves with an office in a proper location in the City of Baltimore, and shall give notice by publication for at least five days through the two daily papers having the largest circulation in said city, of the time and manner in which they will make the examinations hereinafter provided for.

1892, ch. 448. P. L. L., (1888) Art. 4, sec. 297B. 1910, ch. 662.

**427.** The said board shall have general supervision of all stationary engineers within the State of Maryland, except as hereinafter provided; it shall be their duty to examine all engineers of the age of twenty-one years or upwards, who shall apply to them for examination, and to give all parties so examined a certificate of proficiency if found proficient, and to refuse to give such certificate if not found proficient, and the parties so receiving such certificate shall pay to the said board the sum of three dollars (\$3) for each certificate so issued and from all renewals of all grades the sum of one dollar and fifty cents (\$1.50); said certificate shall be of four grades; a certificate of the first grade will permit the holder thereof to take charge of any plant of machinery; the second grade to take charge of any plant of machinery from one to five hundred horse-power, and the third grade to take charge of any plant of machinery from one to thirty horse-power, and the fourth grade to take charge of any hoisting or portable plant of machinery; and the said certificate shall run for the term of one year, and shall be renewed annually, the term of beginning of said certificate to be

from the date of the examination of the respective applicant; provided, that no engineer having such certificate shall have charge of more than one plant of machinery at the same time unless said plant be of the same company and at one and the same place; and no substitute who has not been examined and received a certificate, aforesaid, shall be placed in charge of machinery by any engineer who has.

1892, ch. 448. P. L. L., (1888) Art. 4, sec. 297C.

**428.** All persons of twenty-one years of age or upward who, after the adoption of this Article, shall desire to fill a position as a stationary engineer, must make application to the "Board of Examining Engineers" for examination and certificate of proficiency, before he can pursue his avocation as such engineer; *provided*, that any engineer employed as stationary engineer at the works of any steam railway, or any engineer employed as such with any stationary engine, who at the time of the adoption of this Article shall have been employed at the same place for the term of six months or more, shall not be required to apply for such examination and certificate; but whenever such engineers shall remove from the place where so employed they shall be, and are hereby required to make application for examination and certificate to said Board of Examining Engineers as hereinbefore provided; and *provided* further, that the provisions of this section shall not apply to persons running engines and boilers in sparsely settled country places, where not more than twenty persons are engaged in work about such engines and boilers, nor to engineers running country saw and grist mills, threshing machines and other machinery of a similar character, nor to marine engineers engaged in steamboats, ships and other vessels run by steam, nor to those engaged as locomotive engineers of any steam railway company. And in the event of any charge being made to said board, of any engineer who may hold a certificate from them, of being intoxicated, while in charge of an engine or boiler, or of the neglect of duty on the part of such engineer or engineers, it shall be the duty of said board to immediately hear such charge, and if sustained, annul such certificate. The certificate granted to the respective applicants must be framed and kept in a conspicuous place at such place as such persons may be respectively at work. Any person violating the provisions of this sub-division of this Article shall be deemed guilty of a misdemeanor, and upon trial and conviction before a Justice of the Peace, shall be fined not less than twenty-five dollars nor more than fifty dollars, one-half of which shall be paid the informer and the balance to the State.

1892, ch. 448. P. L. L., (1888) Art. 4, sec. 297D.

429. Said Board of Examining Engineers shall meet at their office in the City of Baltimore for the purpose of examining applicants at least once in every week, and at a specified hour and day, and shall sit until all applicants shall be examined, and in the event of inability to examine all the applicants on the regular day of meeting, they shall continue their sessions for each successive day until the same shall be completed. They shall visit and inspect the running and management of all steam plants wherein the engineers are required to be examined as hereinbefore provided, not less than once every six months, and in the event of their finding on such examination that the engineer or engineers in charge of such plant or machinery are not running and managing the same with proper skill and care, they shall report the same to the State Board of Boiler Inspectors for their action; and said Board of Examining Engineers are hereby invested with power and authority to enter all such premises and make the examination herein provided for; and any owner of any such premises who shall refuse to allow them to enter and make such examination shall be deemed guilty of a misdemeanor and be punishable upon trial and conviction, as provided in the preceding section.

1892, ch. 448. P. L. L., (1888) Art. 4, sec. 297E.

430. The said Board of Examining Engineers shall receive an annual salary of fifteen hundred dollars each, and shall have power to employ a clerk or secretary at a salary not exceeding the sum of one thousand dollars per annum, and such expense shall be allowed said board as shall be incurred in traveling expense, office rent, stationery and printing, and for which they shall produce to the Comptroller of the State Treasury, proper vouchers; *provided*, however, that no appropriation shall be made and no moneys paid by the State Treasurer to said board for or on account of said salaries and expenses, but that the same shall be paid to them by and from the fees received for the examination and certificates hereinbefore provided for; and *provided* further, that the said board shall keep a strict account of all fees received for such purposes, and quarterly, under oath or affirmation, return such statement to the Comptroller of the State Treasury; and whenever the amount is in excess of the salaries and expenses hereinbefore provided for they shall forward such excess to said Comptroller, and they shall keep a certificate book with the certificates therein duly numbered and of which to each certificate there is a corresponding stub to be

filled in to correspond in all respects to the certificate issued, and subject to the inspection of the Comptroller, when he may deem the same necessary.

### FERRIES.

1868, ch. 187. P. L. L., (1888) Art. 4, sec. 298.

**431.** The Broadway and Locust Point Steam Ferry Company of Maryland is created to establish a steam ferry, suitable to transport passengers, goods, wagons, carriages, live-stock or any other transportable article, across, over and within the harbor of Baltimore; and the said corporation is 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 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 said wharf, of the width of ten feet, as a thoroughfare for travel to and from the end of said wharf; and all the remainder of the border sides and surface of the said wharf, except the end and right of way granted, is 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.

Broadway and Locust Point Ferry Co. v. Hankey, 31 Md. 346.

1870, ch. 436. P. L. L., (1860) Art. 4, sec. 299.

**432.** The said corporation is authorized and empowered to occupy and use the wharf at the foot of Haubert Street, in the City of Baltimore, as a wharf or landing place for the ferry boats of said company, in exclusion of all other steam ferry boats plying in the harbor of said city.

1870, ch. 436. P. L. L., (1888) Art. 4, sec. 300.

**433.** It shall not be lawful for any steam ferry boat, other than one of those belonging to the said Broadway and Locust Point Steam Ferry Company of Maryland, to land at or use either of the sides or the end of said wharf at the foot of Haubert street, nor the end or either of the sides of the wharf at the foot of Broadway, mentioned in section 431 of this Article; and any and every person in charge, control or command of any steam ferry company, other than a boat belonging to the said company, who shall use or attempt to use the ends or either of



the sides or any part of the wharves mentioned, for a landing place or wharf for the steam ferry boat so in his charge, control or command, shall each be subject to, and shall pay a fine of twenty-five dollars for each and every time the said steam ferry boat so in his charge, control or command of such person shall touch at either of the wharves aforesaid, which fines shall be enforceable and collectible according to law.

Broadway, etc. Co. v. Hankey, 31 Md. 346.

1870, ch. 436. P. L. L., (1888) Art. 4, sec. 301.

**434.** The said company is authorized to erect gates and ticket houses on the wharves at the foot of Broadway and Haubert street in said City of Baltimore.

1868, ch. 187. 1870, ch. 436. P. L. L., (1888) Art. 4, sec. 302.  
1902, ch. 351.

**435.** The said corporation shall keep and run on their ferry routes two good and substantial steam ferry boats, staunch and seaworthy, and supplied according to the law in such cases made and provided; and the said corporation shall so manage the said ferry as that one of their ferry boats shall leave each end of said ferry at least every ten minutes between the hours of six o'clock A. M. and eight o'clock P. M., and at intervals of twenty-five minutes between the hours of eight o'clock P. M. and twelve o'clock midnight; provided, that the requirements of this section shall be directory only and not mandatory upon said corporation when the weather, public convenience or traffic justify said corporation in altering said requirements.

1868, ch. 187. P. L. L., (1888) Art. 4, sec. 303.

**436.** 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 horse to those above enumerated, har-

nessed to a carriage, five cents; for one lumber wagon and one horse or two horses, twenty-five cents.

1868, ch. 187. P. L. L., (1888) Art. 4, sec. 304.

**437.** 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.

### FINES AND FORFEITURES.

P. L. L., (1860) Art. 4, sec. 232. P. L. L., (1888) Art. 4, sec. 305.  
1892, ch. 411.

**438.** One-half of all fines adjudged by and accruing in the Criminal Court of Baltimore, 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 of 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.

Rawlings v. State, 2 Md. 20.

1884, ch. 119. P. L. L., (1888) Art. 4, sec. 306. 1894, ch. 519.

**439.** The Sheriff of Baltimore City shall, on or before the first day of December in each year, divide equally all fines imposed by the Criminal Court of Baltimore City on persons convicted for keeping houses of ill-fame, among such incorporated dispensaries of said city as shall comply with the provisions of the succeeding section.

Snowden v. Baltimore Dispensary, 60 Md. 85.

1884, ch. 119. P. L. L., (1888) Art. 4, sec. 307.

**440.** Such fines shall be divided equally among those incorporated dispensaries which shall, within ten days after the tenth day of November in each year file in the office of the Sheriff of Baltimore City separate reports, the truth of each of which shall be sworn to by one of the officers of the dispensary filing the same, before any officer of the State of Maryland authorized by law to administer oaths, showing that in the year preceding such tenth day of November, the said dispensary had under its charge more than two thousand separate persons as patients, and that its said dispensary was open for the treatment of disease two hours daily, and for the free distribution of

medicine to the poor six hours daily on each week day and two continuous hours on each Sunday in said year.

1884, ch. 119. P. L. L., (1888) Art. 4, sec. 308.

**441.** In case said fines shall not be claimed by any such dispensary in the manner specified in the two preceding sections, then said fines shall be paid by the Sheriff to the Mayor and City Council of Baltimore.

1884, ch. 119. P. L. L., (1888) Art. 4, sec. 309.

**442.** The said Sheriff's official bond shall be responsible for the faithful payment of said money as hereinbefore provided, and shall be liable for any default in any duty herein required to be performed by him.

P. L. L., (1860) Art. 4, sec. 234. P. L. L., (1888) Art. 4, sec. 310.  
1908, ch. 18.

**443.** 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. And in default of the payment of said fine and costs shall serve one day in jail for each dollar or fractional part thereof of said fine and costs; provided, however, that in no case shall the term of such imprisonment in default of the payment of any fine and costs exceed six months.

In connection with fines, *see*, Day v. State, 7 Gill 322. State v. Mace, 5 Md. 337.

1908, ch. 314.

**443A.** The provisions of the foregoing section shall also apply to the term of imprisonment to be served in default of fines and forfeitures imposed by the several police magistrates of Baltimore City when exercising criminal jurisdiction.

1880, ch. 211. P. L. L., (1888) Art. 4, sec. 311.

**444.** When any fine or penalty is imposed by any Act of Assembly of this State, or by any ordinance of any incorporated city or town in this State, enacted in pursuance of sufficient authority, for the doing of any act forbidden to be done by such Act of Assembly or ordinance, or for omitting to do any act required to be done by such Act of Assembly or ordinance, the doing of such act, or the omission to do such act, shall be deemed to be a criminal offence; such offence, in the City of Balti-

more, shall be prosecuted by the arrest of the offender for such offence, and by holding him to appear in or committing him for trial in the Criminal Court of Baltimore, at the Saturday sessions of said court, which said court shall have jurisdiction in the said cases, and shall proceed to try or dispose of the same in the same manner as other criminal cases triable at the Saturday sessions of said court may be tried or proceeded with, or disposed of, or such offence may be prosecuted by indictment in such court; such offences in any county of this State shall be prosecuted by the arrest of the offender for such offence, and by holding him to bail to appear in or committing him for trial in the Circuit Court for the county in which such offence was committed, or by indictment in the Circuit Court for such county for such offence. If any person shall be adjudged guilty of any such offence by any court having jurisdiction in the premises, he shall be sentenced to the fine or penalty prescribed by such Act of Assembly or ordinance, and to the costs of his prosecution, and in default of payment thereof he shall be committed to jail until thence discharged by due course of law; any indictment for the violation of any ordinance of any incorporated city or town of this State may conclude "against the form of the ordinance in such case made and provided, and against the peace, government and dignity of the State."

McCracken v. State, 71 Md. 155. Dean v. State, 98 Md. 80.

## FIRE.

### *Fire Department.*

1888, ch. 393. P. L. L., (1888) Art. 4, secs. 315, 315C.

**445.** The Mayor and City Council of Baltimore is hereby directed to appropriate annually such sums of money as shall be sufficient to pay the pensions of such members of the Fire Department as shall heretofore have been put upon the pension roll, and as shall thereafter be put upon said pension roll, in accordance with the provisions of this Article; and also to appropriate such sums of money as may be sufficient to afford relief to the widows and children of firemen killed in the discharge of duty.

### MISCELLANEOUS LOCAL LAWS.

P. L. L., (1860) Art. 4, sec. 237. P. L. L., (1888) Art. 4, sec. 313.

**446.** Any person who shall wilfully destroy or injure any engine, hose, reel or other apparatus whatever for the extin-

guishment 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.

P. L. L., (1860) Art. 4, sec. 238. P. L. L., (1888) Art. 4, sec. 314.

447. 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 the payment of a fine of not less than ten nor more than one hundred dollars.

*Fire Gongs in Hotels.*

1906, ch. 180, sec. 1.

447a. Any building or buildings now used as hotels or apartment houses, or that shall hereafter be used as such shall have installed in said building or buildings large fire gongs, which shall be rung only in case of fire or danger of fire, so as to notify and warn the occupants thereof.

1906, ch. 180, sec. 2.

447b. The gongs provided for in the preceding section shall be of such size as shall be designated by the Inspector of Buildings of Baltimore City, and shall be placed one at each stair landing and one at each end of every corridor or hall, and so put up, arranged and connected that each gong can be sounded from the main office.

1906, ch. 180, sec. 3.

447c. Any owner, agent, lessee or manager of any building or buildings used or occupied as a hotel or apartment house, that shall neglect or refuse to comply with the provisions of this Act shall be deemed guilty of a misdemeanor, and upon indictment and conviction thereof shall be fined not less than \$250 nor more than \$1,000, for each offense.

1906, ch. 180, sec. 4.

447d. The provisions of this Act shall not apply to buildings of twelve rooms or less.

P. L. L., (1888) Art. 4, sec. 315D. 1892, ch. 345. 1900, ch. 708.

**448.** The Mayor and City Council of Baltimore is hereby authorized and empowered to appropriate annually the sum of one thousand dollars, payable to the Veteran Volunteer Firemen's Association of Baltimore City, for the rental of a suitable building for the keeping of its apparatus, holding meetings, paying janitor, and for fuel and other necessary expenses incident to said association.

1910, ch. 568.

**448a.** That no building or structure of any kind whatever shall be erected, constructed or altered, or used as a garage, livery or hiring stable, or any other stable having accommodations for over ten horses, housing of vehicles of any kind, storage house, houses or structures for keeping of inflammable goods or explosives of any kind whatever within six hundred feet (600) of any building or structure used as a public hospital in the City of Baltimore; nothing in this Act shall be construed to apply to garage, livery or hiring stables or any other stable in use at the time of the passage of this Act.

*Illuminating Oils and Fluids.*

1874, ch. 504. P. L. L., (1888) Art. 4, sec. 329.

**449.** All oils or fluids manufactured from petroleum or its products, used for illuminating purposes in this State, which shall be manufactured or kept for sale therein, shall be required to stand a fire test of one hundred and ten degrees Fahrenheit before it shall burn, to be ascertained by Tagliabue's coal oil tester, or some other instrument constructed upon the same principle.

1874, ch. 504. P. L. L., (1888) Art. 4, sec. 330.

**450.** Every person manufacturing or selling illuminating oils or fluids, manufactured from petroleum or its products, by the barrel, shall be required to have stamped upon the head of the barrel the name of the manufacturer thereof and his place of business, together with the words "warranted to stand a fire test of one hundred and ten degrees Fahrenheit before it shall burn."

1874, ch. 504. P. L. L., (1888) Art. 4, sec. 331.

**451.** Whoever manufactures for illuminating purposes, or sells in quantities not less than a barrel, oils or fluids made from petroleum or its products, which does not sustain the

fire test as provided in section 449, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined not more than one thousand dollars, or imprisoned in the jail or penitentiary not more than two years, in the discretion of the court. Whoever sells in quantities less than a barrel, for illuminating purposes, oils or fluids made from petroleum or its products, which does not sustain the fire test provided for in section 449, shall forfeit said oil, and be fined not less than five dollars nor more than twenty dollars; said fine to be collected as other fines are now collected, one-half to go to the informer, the other to be paid into the treasury of the State.

1874, ch. 504. P. L. L., (1888) Art. 4, sec. 332.

**452.** Any purchaser of oils or fluids made of petroleum or its products, for illuminating purposes, bearing the stamp required in section 450, and which does not stand the fire test required in section 449, may recover from the seller in an action for debt an amount equal to double the purchase money of said oil.

1874, ch. 504. P. L. L., (1888) Art. 4, sec. 333.

**453.** Any accident by reason of explosion, occurring with any oil or fluid manufactured from petroleum or its products, shall subject the seller thereof to prosecution for a misdemeanor, and upon conviction thereof in a court of competent jurisdiction, to a fine not exceeding one thousand dollars, nor less than five hundred dollars; one-half of said fine to be paid to the informer and the other half to the State.

1874, ch. 504. P. L. L., (1888) Art. 4, sec. 334.

**454.** In case of seizure or confiscation of oils or fluids manufactured from petroleum or its products, as provided in section 451, the party who has sold such oils or fluids shall have the privilege of referring the same to some commissioned inspector recognized by the oil trade of Baltimore, whose decisions shall be *prima facie* evidence of the quality of said oil or fluid.

1874, ch. 504. P. L. L., (1888) Art. 4, sec. 335.

**455.** If any inspector of oils shall be convicted in a court of competent jurisdiction of furnishing a false report of the fire-test of any oil submitted to his inspection, he shall be liable to a fine of not less than five hundred dollars nor more than two thousand dollars, at the discretion of the court; said fine to be paid into the treasury of the State.

1874, ch. 504. P. L. L., (1888) Art. 4, sec. 336.

**456.** The provisions of the seven preceding sections shall not apply to oils or fluids manufactured from petroleum or its products for the purpose of exportation or for use in street lamps.

### FISH.

1886, ch. 450. P. L. L., (1888) Art. 4, sec. 337.

**457.** No person shall expose for sale, or have in his possession, offering for sale, any striped bass or rock weighing less than one-half pound each, or any white perch weighing less than one-quarter of a pound each; any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction by a court of competent jurisdiction shall be fined not more than twenty dollars or be confined in jail not more than thirty days, or both, in the judgment of the court.

### GAS COMPANIES.

**458, 459 and 460.** Repealed by Act of 1910, Chapter 56.

1888, ch. 322. P. L. L., (1888) Art. 4, sec. 341. 1900, ch. 180.

**461.** No corporation or person shall charge for illuminating gas in Baltimore City a sum to exceed one dollar and ten cents per thousand cubic feet.

1888, ch. 322. P. L. L., (1888) Art. 4, sec. 342.

**462.** The illuminating gas furnished by any such corporation or person shall have an illuminating power not less than twenty sperm candles of six to the pound, and burning at the rate of one hundred and twenty grains of spermaceti per hour, tested at a distance of not less than one mile from the place of manufacture by a burner consuming five cubic feet of gas per hour, and shall as regards purity, comply with the standard now or hereafter established by law.

1912, ch. 853.

**462a.** That if and when a proposition for the introduction of natural gas into the City of Baltimore and for the supply of the same to the consumers for a term not exceeding twenty-five years shall be submitted to the Board of Estimates for the City of Baltimore, the same shall be by it fully considered. If and when the said Board of Estimates shall have approved



such proposition or any modification thereof and shall have entered into an agreement with any corporation either upon the proposition submitted or otherwise, which it is hereby authorized to do, the agreement thus reached shall be reduced to writing and shall thereupon be submitted to the Public Service Commission of the State of Maryland for its approval as to the rates therein prescribed; and as to each and all the terms, conditions and provisions thereof, and upon such approval by the said Public Service Commission, and not before the said agreement shall become binding upon the City of Baltimore and upon the corporation named in said agreement on the further approval of such agreement by ordinance of the City Council of Baltimore and the approval of such ordinance by the Mayor; and the officials of the City of Baltimore are thereupon required to duly execute such contract with the corporation therein named for the term of years and in accordance with the rates, terms and conditions therein set forth.

1912, ch. 853.

**462b.** That any such agreement may contain such provisions and conditions with respect to the rates and conditions to consumers for the supply of artificial gas, as shall be approved as above provided.

1912, ch. 853.

**462c.** That nothing contained in this Act shall limit or authorize any contract that may limit in any manner the powers of the Public Service Commission of Maryland.

## HARBOR, DOCKS AND WHARVES.

### HARBOR.

P. L. L., (1860) Art. 4, sec. 267. 1884, ch. 309. P. L. L., (1888) Art. 4, sec. 351. 1908, ch. 170.

**463.** No alteration, extension or removal of wharves, piers, bulkheads or pilings shall be made in the Patapsco River or tributaries without consent of the Harbor Board.

Page v. Mayor, 34 Md. 558. Hazlehurst v. Mayor, 37 Md. 199. Williams v. Baker, 41 Md. 523. B. & O. R. R. Co. v. Chase, 43 Md. 24. Horner v. Pleasants, 66 Md. 477. Classen v. Chesapeake Co., 81 Md. 258.

*See*, Res. 185, April 22, 1876.

P. L. L., (1860) Art. 4, sec. 268. P. L. L., (1888) Art. 4, sec. 352. 1908, ch. 170.

**464.** If any person shall violate the provisions of the pre-

ceding section he shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine not exceeding two hundred and fifty dollars, and the Harbor Board is hereby empowered to remove forthwith, at the expense of the persons erecting the same, the structure, obstruction or extension complained of.

**465** and **466.** Repealed by Act of 1908, Chapter 170.

*Docks.*

P. L. L., (1860) Art. 4, sec. 193. P. L. L., (1888) Art. 4, sec. 358.

**467.** 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.

P. L. L., (1860) Art. 4, sec. 194. 1880, ch. 418. P. L. L., (1888) Art. 4, sec. 359. 1908, ch. 170.

**468.** No vessel shall lie at any wharf, pier or dock, or adjoining same, in such manner as to obstruct or prevent the free passage of any vessel to or from some other berth in the same or another wharf, pier or dock. The master of any vessel refusing to comply with the provisions of this section within one hour from the time notice to move his said vessel shall have been served upon him by the harbor master or a police officer of Baltimore City, shall be guilty of a misdemeanor, and shall be subject to a fine of not more than twenty dollars for every hour thereafter said obstruction continues.

P. L. L., (1860) Art. 4, secs. 196, 197. 1880, ch. 418. P. L. L., (1888) Art. 4, sec. 360. 1908, ch. 170. 1912, ch. 32.

**469.** Provided, however, that, except in regard to docks and wharves owned by the Mayor and City Council of Baltimore, nothing contained in any section or provision of this Article shall be construed to impose any duty upon the Mayor and City Council of Baltimore to any person or corporation using the Patapsco River, or any branch or tributary thereof, in regard to the safety thereof, or to render the said Mayor and City Council of Baltimore liable for any loss of life or injury or damage to person or property, by reason of any obstruction in, or unsafe condition of, any part of said river or of said branches or tributaries, or either of them.

**470 to 477**, both inclusive. Repealed by Act of 1908, Chapter 170.

P. L. L., (1860) Art. 4, sec. 952. P. L. L., (1888) Art. 4, sec. 370.

**478.** 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.

P. L. L., (1860) Art. 4, sec. 953. P. L. L., (1888) Art. 4, sec. 371.

**479.** The person landing wood upon the public wharves under the preceding section shall pay the Tobacco Inspector the sum of six and a quarter cents a cord, to be by the said inspector paid into the State Treasury, and the inspector shall be allowed twenty per cent. upon the money so received and paid into the State Treasury.

### *Harbor Board.*

P. L. L., (1888) Art. 4, sec. 372. 1894, ch. 423.

**480.** The Harbor Board shall have full control and management of the iceboat Annapolis, belonging jointly to the State of Maryland and the City of Baltimore, subject to the orders of the Governor of the State, for the use of said boat for the public service.

See P. L. L., (1888) Art. 4, secs. 372 to 377, inclusive, relating to ice boat and harbor relief.

P. L. L., (1888) Art. 4, sec. 373. 1894, ch. 423.

**481.** The said Board is hereby authorized to appoint, in conformity with the provisions of section 88 of this Article, at such reasonable rates of pay as it may determine, and at its pleasure to discharge, such officers and crew as may in its judgment be deemed necessary for the proper operation and maintenance of said boat at all times.

P. L. L., (1888) Art. 4, sec. 374. 1894, ch. 423.

**482.** The said Board shall employ the said boat, primarily, for the purpose of preventing obstruction by ice to the navigation of Baltimore harbor, and the ship channels leading thereto, and for the relief of vessels in distress, bound to or from the port of Baltimore.

P. L. L., (1888) Art. 4, sec. 375. 1894, ch. 423.

**483.** The Board is further authorized to use the said boat (or at its discretion the ice boat Latrobe) in the relief from obstruction by ice of any of the harbors or channels of the Chesapeake Bay or its tributaries, when such service can be rendered without detriment to the commerce of the port of Baltimore, and for any other service which the said Board may deem advantageous to commerce and the public interest; the Board may charge such reasonable rates for towage, or relief of vessels, as it may deem proper, having in view the public and private interests and facilities of commerce, and the sum received for same shall be applied to the expense of the boat.

P. L. L., (1888) Art. 4, sec. 376. 1894, ch. 423.

**484.** The annual expenses of maintaining and operating said iceboat shall be paid by the Mayor and City Council of Baltimore.

P. L. L., (1888) Art. 4, sec. 377. 1894, ch. 423.

**485.** The said Board shall in its annual report to the Mayor and City Council of Baltimore embody statements of the operations of, and the receipts and disbursements for the said iceboat, and shall send copies of the same to the Governor and Comptroller of the Treasury of the State.

## HEALTH.

### NUISANCES.

P. L. L., (1860) Art. 4, sec. 798. P. L. L., (1888) Art. 4, sec. 379.  
1910, ch. 288.

**486.** Whenever any nuisance dangerous to the health of the city shall exist in any street, lane or alley of the city, either public or private, and it shall be found necessary in order to remove the same to have such street, lane or alley paved, the said city may 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 equal portions, by suit against the owner.

City can assess against abutting owner for paving private alley to abate nuisance.

Owners Realty Co. v. M. & C. C., 112 Md. 477.

P. L. L., (1860) Art. 4, sec. 799. P. L. L., (1888) Art. 4, sec. 380.

**487.** The said owner may in such action defend himself

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.

P. L. L., (1860) Art. 4, sec. 800. P. L. L., (1888) Art. 4, sec. 381.

**488.** 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 city may levy such expenses upon said property.

P. L. L., (1860) Art. 4, sec. 801. P. L. L., (1888) Art. 4, sec. 382.

**489.** If any of the said property shall be owned by persons not resident within the limits of said city, then, after public notice given at least three times a week for three successive weeks in two 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 thereof, the City 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.

P. L. L., (1860) Art. 4, sec. 802. P. L. L., (1888) Art. 4, sec. 383.

**490.** Such non-resident may, at any time within three months after said expenses have been levied and collected, institute an action against the city 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 an 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.

P. L. L., (1860) Art. 4, sec. 803. P. L. L., (1888) Art. 4, sec. 384.

**491.** Whenever any nuisance dangerous to the health of the city shall be found upon any vacant lot within the city, the city may remove or abate the same, and shall have the same remedy against the owner of such lot, for the expenses 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.

P. L. L., (1860) Art. 4, sec. 854. P. L. L., (1888) Art. 4, sec. 385.

**492.** Whenever the Commissioner 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 this Article relating to streets.

City has right to grade a street, lane or alley to abate a nuisance.

Owners Realty Co. v. M. & C. C., 112 Md. 477.

### ATHLETIC FIELDS, ETC.

1910, ch. 203.

**492a.** That the Mayor and City Council of Baltimore City be and the same is hereby authorized and empowered to enter into agreements or contracts with the Public Athletic League, incorporated, for the purpose of establishing, maintaining and conducting gymnasias, athletic fields and recreation centers for the benefit of the people of Baltimore City, for such length of time and upon such terms as the Mayor and City Council of Baltimore City may deem advantageous.

### *Chemical Laboratories.*

P. L. L., (1860) Art. 4, sec. 149. P. L. L., (1888) Art. 4, sec. 387.

**493.** No person shall erect or assist in the erecting any chemical laboratory within the limits of said city without the consent of the city, and the city 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.

### *Children's Playgrounds.*

1906, ch. 201.

**493a.** The Mayor and City Council of Baltimore is authorized and empowered to enter into an agreement with the duly constituted officers of the Children's Playground Association (Division Eight United Women of Maryland) for the maintenance of Children's Playgrounds in the City of Baltimore, for such length of time and upon such terms as the Mayor and City Council of Baltimore may deem advantageous.

1908, ch. 511.

493b. That the Mayor and City Council of Baltimore be and it is hereby authorized and empowered to enter into an agreement with the Children's Playground Association of Baltimore City, a body corporate, for the maintenance of children's playgrounds in the City of Baltimore, for such length of time and upon such terms as the Mayor and City Council of Baltimore may deem advantageous.

1908, ch. 511.

493c. That any contract or appropriation heretofore made or provided for by the Mayor and City Council of Baltimore in pursuance of the provisions of Chapter 201 of the Acts of the General Assembly of Maryland, session of 1906, with the duly constituted officers of the Children's Playground Association (Division Eight, United Women of Maryland) may, with the written consent of the said officers, be transferred to and continued in the Children's Playground Association of Baltimore City, a body corporate.

*Hospitals for Infectious Diseases.*

1902, ch. 36.

493d. No hospital for the treatment of infectious or contagious diseases shall be erected or maintained in the City of Baltimore, nor shall any money be appropriated or used by the Mayor and City Council of Baltimore for the erection and maintenance of any such hospital until the site upon which said hospital is to be located shall first be approved and authorized by an ordinance of the Mayor and City Council of said municipality, which said ordinance shall be approved by a vote in each branch of said City Council of not less than two-thirds of all the members elected thereto.

1902, ch. 36.

493e. The ordinance providing for the selection of any site shall specify fully and clearly the character of the diseases to be treated in the hospital to be erected thereon, and when said hospital is erected, no other diseases except those specified shall be treated therein unless authorized by an additional ordinance approved in the manner as set forth in section 1 of this Act.

Sections 493d and 493e, are sections 1 and 2 of Act 1902, ch. 36.

1902, ch. 348.

493f. Whenever in the interest of the public health, the

erection or maintenance of temporary buildings, hospitals or places of detention for the treatment of infectious or contagious diseases shall become necessary, such buildings, hospitals or places of detention for temporary purposes shall be authorized by an ordinance of the Mayor and City Council of Baltimore, and such ordinance shall name the diseases to be treated and describe the location of said building or buildings, hospital or hospitals, or such places of detention; provided that nothing in this Act shall be construed to prevent the detention by the health officers of said City of Baltimore of any person or persons that may be suspected of being infected with or having an infectious or contagious disease.

1898, ch. 362.

493g. The Mayor and City Council of Baltimore be and they are authorized and empowered hereafter to appropriate, annually, and to give for the use and benefit of the Hospital for Consumptives of Maryland of Baltimore City, any sum or sums of money which they may deem proper; provided the sum shall not exceed four thousand dollars per annum for any one year.

*Infants in Improper Homes or Care.*

1906, ch. 334.

493h. No midwife, institution, corporation or home not duly incorporated for such purpose shall receive infants or young children for the purpose of caring for them with a view to compensation without first securing a license from the Board of Health.

1906, ch. 334, sec. 2.

493i. Before the granting of such a license the Board of Health shall require each application to be endorsed by four reputable citizens and as far as possible thereafter a record shall be kept by the Commissioner of Health containing the full name and address of each infant or child received, the date of its birth, the date of its reception, and in case of a change in address, the date and place of its removal.

1906, ch. 334, sec. 3.

493j. Before issuing said license the home or institution of each applicant shall be visited by an agent or inspector of the Board of Health, and a full investigation made as to the



sanitary conditions, accommodations, the ability and fitness of the applicant to take charge of such infant or child, and such other information bearing on the subject as may be of value, and that the agent's report and recommendation may be a basis upon which the Board of Health may base its action for granting or rejecting the application for such license.

1906, ch. 334, sec. 4.

**493k.** Any midwife or institution, corporation or person which shall receive or board an infant or small child under three years of age with a view to compensation without first securing such license, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined \$25.00 and costs for each and every offence, one-half of the said fine to be paid to the informer, and upon failure to pay the fine imposed and the cost of the proceedings, the person or persons so convicted shall be committed by the Court or Justice who imposed such fine, to the City Jail for a period not less than ten days, nor more than thirty days.

1906, ch. 334, sec. 5.

**493l.** The provisions of this Act shall in no way be regarded as applying to such persons or homes as may be recommended by the Supervisors of City Charities of Baltimore City.

Act 1906, ch. 334, codified as sections 493h to 493l, inclusive, of the Charter.

**494—504.** Sections 494 to 504, inclusive, of the Charter were repealed by Act 1902, Chapter 179.

*Seats for Female Employes in Stores or Factories.*

1882, ch. 35. P. L. L., (1888) Art. 4, sec. 398. 1900, ch. 589.

**505.** Every employer of females in any mercantile or manufacturing establishment in the City of Baltimore must provide and maintain suitable seats for the use of such employes. A person is deemed not to maintain suitable seats for the use of female employes unless he permits the use thereof by such employes to such extent as may be reasonable for the preservation of health and proper rest; and the question of what is thus reasonable is one for determination by the jury or the court acting as a jury in any prosecution hereunder.

1882, ch. 35. P. L. L., (1888) Art. 4, sec. 399.

**506.** Any violation of the preceding section by any em-

ployer shall be deemed a misdemeanor, and shall be punishable by a fine of one hundred and fifty dollars, to be collected as other fines are collected.

*Tenement and Lodging Houses.*

1886, ch. 396. P. L. L., (1888) Art. 4, sec. 400.

**507.** The Mayor and City Council of Baltimore are authorized and directed to enact ordinances regulating the construction, care, use and management of tenement houses, lodging houses and cellars in the City of Baltimore, for the better protection of the lives and health of the inmates dwelling therein.

State v. Hymen, 98 Md. 596.

1886, ch. 396. P. L. L., (1888) Art. 4, sec. 401. 1900, ch. 557.  
1908, ch. 190.

**508.** A tenement house shall be taken to mean and include every house, building or portion thereof which is rented, leased, let or hired out to be occupied or is occupied as the house or residence of three or more families, living independently of one another, and doing their own cooking upon the premises, or by more than two families upon a floor so living or cooking, but having a common right in the halls, stairways, yards, water closets or privies, or some of them; a lodging house shall be taken to mean and include any house or building, or portion thereof, in which persons are harbored, or received, or lodged for hire for a single night, or for less than a week at one time, or any part of which is let for any person to sleep in for any time less than a week; a cellar shall be taken to mean and include every basement or lower story of any building or house of which one-half or more of the height from the floor to the ceiling is below the level of the street adjoining.

*State Board of Commissioners of Practical Plumbing.*

1886, ch. 439. P. L. L., (1888) Art. 4, sec. 402. 1894, ch. 609.

**509.** It shall not be lawful for any person, firm or corporation engaged in the plumbing business in the City of Baltimore to employ as workmen in said business any persons, except those qualified to work at the plumbing business, as provided in section 511 of this Article; and no person shall be qualified to work at the plumbing business unless he has made application to and received from the State Board of Commissioners of Practical Plumbing the certificate of competence provided

for in section 511 of this Article, and is otherwise qualified, as required by this sub-division of this Article. Any person or firm engaged in the plumbing business in the City of Baltimore, and the superintendent, manager, agent or other officer of any corporation, engaged in the plumbing business in the City of Baltimore, who shall employ any person to work at the plumbing business not qualified as required by this sub-division of this Article shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten dollars nor more than fifty dollars for every day or part of every day that such employer shall employ such workman.

Singer v. State, 72 Md. 464. Davidson v. State, 77 Md. 388. State v. Knowles, 90 Md. 657.

1886, ch. 439. P. L. L., (1888) Art. 4, sec. 403. 1894, ch. 609.

**510.** If any person shall work at the plumbing business in the City of Baltimore without being qualified as required by this sub-division of this Article he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five dollars nor more than fifty for every day or part of every day that such workman shall work at the plumbing business.

Singer v. State, 72 Md. 464. Davidson v. State, 77 Md. 388.

1886, ch. 439. P. L. L., (1888) Art. 4, sec. 404.

**511.** The Governor shall appoint biennially five persons, who shall constitute a Board of Commissioners, which shall be known and designated as "The State Board of Commissioners of Practical Plumbing," and who shall be selected as follows: Three persons who are practical and skilled plumbers from the City of Baltimore, the Commissioner of Health of Baltimore City, and a member of the State Board of Health, from the State at large, whose duty it shall be to faithfully and impartially execute, or cause to be executed, all the provisions and requirements of this and the two preceding sections; upon application and in such manner and at such place as they may determine, *provided* said place of examination shall be within the limits of the City of Baltimore, they shall examine each and every person who shall desire to work at the plumbing business, touching his competency and qualifications; and upon being satisfied that the person so examined is competent and qualified to work at said business, they, or any three of them, shall grant such person a certificate of competency, and register him in their books as a practical plumber, which shall operate as

full authority to him to conduct and engage in the said business of plumbing.

Davidson v. State, 77 Md. 388.

1886, ch. 439. P. L. L., (1888) Art. 4, sec. 405.

**512.** The said Board of Commissioners shall demand and receive from each applicant for a certificate of competency whom they examine and pass the sum of three dollars at the time of the issuance of said certificate, and the sum of one dollar for the renewal thereof each and every year thereafter, on or before the first day of May.

Davidson v. State, 77 Md. 388.

1886, ch. 439. P. L. L., (1888) Art. 4, sec. 406.

**513.** The money received under the provisions of the foregoing section shall be used and applied by said Commissioners to defray their expenses, and all surplus over and above their necessary expenses shall be returned to the State Treasurer for the use of the State.

Davidson v. State, 77 Md. 388.

1886, ch. 439. P. L. L., (1888) Art. 4, sec. 407. 1894, ch. 609.  
1904, ch. 636.

**514.** Said Commissioners shall hold their several offices for the period of two years, commencing from the first day of May in the year 1886, and thereafter until their successors have been appointed and qualified; each Commissioner, within thirty days after notification of his appointment, shall take and subscribe an oath or affirmation before the Clerk of the Superior Court of Baltimore City to impartially and faithfully discharge his duties as Commissioner; every person appointed Commissioner who shall refuse or neglect to take the oath or affirmation provided for in this section, within the period named, shall be deemed to have refused said office, and the Governor shall immediately appoint some person qualified, as provided in section 511 of this Article, to fill the vacancy thus created; each of said Commissioners shall receive the sum of five dollars for every day that he shall be present at a meeting of said Board for the transaction of business, provided, however, that in each year he shall not receive compensation for more than thirty days; and provided also, that said compensation shall be paid out of the fees or other sums received by said Board.

Davidson v. State, 77 Md. 388.

\* 1886, ch. 439. P. L. L., (1888) Art. 4, sec. 408.

515. The said Board of Commissioners are empowered to make such rules and regulations from time to time as in their judgment they may deem necessary and requisite; and they shall make a report of the condition of the Board to the Governor biennially, on or before the first day of February, with a full statement of their receipts and expenditures.

### HORSESHOEING.

1898, ch. 491.

515a. It shall be unlawful for any person to practice horseshoeing in the City of Baltimore or in the twelfth district of Baltimore County, unless such person has obtained a certificate and has been duly registered as hereinafter provided.

#### *Board of Examiners of Horseshoers.*

1898, ch. 491.

515b. A "Board of Examiners for Horseshoers" is created, which shall consist of five members, one of whom shall be doing business as veterinarian only, two master horseshoers and two journeymen horseshoers, all doing business in Baltimore City, whose duty it shall be to carry out the purposes and enforce the provisions of this Act. The members of said Board shall be appointed by the Governor, and the term for which they shall hold office shall be for four years, except that the members of said Board to be first appointed under this Act shall be designated by the Governor to serve one for two years, two for three years and two for four years, and unless removed by the Governor, until their successors are duly appointed. Any vacancy in said Board, for any cause, shall be filled by the Governor.

1898, ch. 491.

515c. Said Board shall meet in the month of May next after the passage of this Act, and organize by the election of a president and secretary, and thereafter shall hold regular meetings in the months of May and November in every year, and such special meetings for the examinations of persons desiring to practice horseshoeing, as occasion may require; that they shall pass such by-laws and prescribe such rules and regulations as may be necessary to carry into effect the provisions of this Act; and said Board shall at its first meeting, prescribe and clearly define the qualifications and tests necessary to obtain a certificate as master or journeyman horseshoer. Printed copies of

such requirements shall be furnished to all persons desiring to pass an examination for said certificate, and any person who shall, on examination be found by a majority of said Board to possess the said requirements so prescribed, shall be granted a certificate to that effect on the payment to said Board of a fee of two dollars; and all proceedings of said Board shall be open to public inspection.

1898, ch. 491.

**515d.** Any person who has practiced as a master or journeyman horseshoer in the City of Baltimore or the twelfth district of Baltimore County, for three years prior to the passage of this Act, who will file an affidavit to that effect with said Board, shall be entitled to a certificate without examination, on the payment of a fee of twenty-five cents to said Board; or anyone who has a certificate from any duly constituted examining board of the State of Maryland, or of any other State, that he is a competent master or journeyman horseshoer, on filing and registering said certificate or a copy thereof with said Board, shall be entitled to a certificate from said Board without an examination, on payment of a fee of two dollars, but, that after the passage of this Act, no person who has not served an apprenticeship at horseshoeing for a period of three years shall be entitled to an examination for said certificate.

1898, ch. 491.

**515e.** All certificates issued by said Board shall be signed by its officers and bear its seal, and the secretary of said Board shall keep a book in which all certificates so issued and the names of the persons to whom the same shall have been issued shall be duly registered, and a transcript from said book of registration, certified by the secretary, with the seal of the Board, shall be evidence in any court in the State, and said secretary shall furnish to any one a copy of his certificate on payment of the sum of one dollar.

1898, ch. 491.

**515f.** Any person who shall violate any of the provisions of this Act shall be guilty of a misdemeanor, and upon the conviction thereof in any court having criminal jurisdiction, shall be fined not more than twenty-five dollars or be confined in the Baltimore City jail or Baltimore County jail, not more than one month, in the discretion of the court. All fines received under this Act shall be paid into the common school

fund of the City of Baltimore, or of Baltimore County, if the offence shall have been committed in said county. The provisions of this Act shall not interfere with the right of the owners of horses to have them shod at their own shops.

### HOURS OF LABOR AND WAGES.

P. L. L., (1888) Art. 4, sec. 31A. 1898, ch. 458. 1908, ch. 85. 1910, ch. 94, sec. 2.

**516.** That eight hours shall constitute a day's work for all laborers, workmen or mechanics who may be employed by or on behalf of the Mayor and City Council of Baltimore, except in cases of extraordinary emergency, which may arise in time of war or in cases where it may be necessary to work more than eight hours per calendar day for the protection of property or human life; provided, that in all such cases the laborer, workman or mechanic so employed and working to exceed eight hours per calendar day shall be paid on the basis of eight hours constituting a day's work; provided further, that the rate of per diem wages paid to laborers, workmen or mechanics employed directly by the Mayor and City Council of Baltimore shall not be less than two dollars per diem; provided further, that not less than the current rate of per diem wages in the locality where the work is performed shall be paid to laborers, workmen or mechanics employed by contractors or sub-contractors in the execution of any contract or contracts, in any public work within the City of Baltimore.

1910, ch. 94, sec. 3.

**516a.** That all contracts hereafter made by or on behalf of the Mayor and City Council of Baltimore with any person or persons or corporation, for the performance of any work with the City of Baltimore, shall be deemed and considered as made upon the basis of eight hours constituting a day's work, and it shall be unlawful for any such person or persons or corporation to require or permit any laborer, workman or mechanic to work more than eight hours per calendar day in doing such work, except in the cases and upon the conditions provided in section 2 of this Act.

1910, ch. 94, sec. 4.

**516b.** That any officer of the Mayor and City Council of Baltimore, or any person acting under or for such officer, or any contractor or sub-contractor or other person acting for them, violating any of the provisions of this Act, shall for each and

every offense be fined not less than ten dollars nor more than fifty dollars for each and every offense, one-half of such fine to go to the informer; said fines to be collected as other fines are collected by law.

1910, ch. 94, sec. 5.

**516c.** That the provisions of this Act should not apply to the employees of the Fire Department, Bay View Asylum or the Baltimore City Jail.

## HOUSES OF REFUGE AND REFORMATION.

1878, ch. 267. 1880, ch. 111. 1880, ch. 323. 1890, ch. 61. 1890, ch. 392. P. L. L., (1888) Art. 4, sec. 410. 1902, ch. 391. 1906, ch. 469. 1908, ch. 246. 1910, ch. 271. 1912, ch. 332.

**517.** The Mayor and City Council of Baltimore may annually appropriate a sufficient sum of money to pay for the support and maintenance of each minor committed from the City of Baltimore by legal process, not exceeding \$120.00 per annum for each minor so committed to the following reformatories: Maryland School for Boys, St. Mary's Industrial School, Colored House of Reformation, House of Good Shepherd for Colored Girls, Industrial Home for Colored Girls, and to any other reformatories to which such minors may be so committed; and may appropriate in conformity with the requirements of sections 105-107 of this Article annually, a sum of money not exceeding five thousand dollars (\$5,000) to the Boys' Home Society of Baltimore City, and annually a sum of money not exceeding ten thousand dollars (\$10,000) to the Female House of Refuge; and St. Vincent's Male Orphan Asylum of Baltimore City any sum now due said institution for care of destitute or other minors committed by the Court or other police magistrates to its care, or who may hereafter be committed, not exceeding the sum of ten thousand dollars per year, and the said Mayor and City Council of Baltimore are further authorized and empowered to appropriate for repairs, permanent improvements and additions to the buildings and grounds now used or hereafter to be used by the Maryland School for Boys and its successors, an additional sum or sums of money as in their judgment shall from time to time be required for those purposes.

The Female House of Refuge stands in *loco parentis* to the inmates thereof. As to rights of such inmates, *see*,

*Cole v. Female House of Refuge*, Daily Record, December 20, 1895.

*Funds of Charitable Institutions:* Are not liable to the payment of damages, being regarded as trust funds, and as such not liable in an action for damages.



Turner v. Baltimore Humane and Impartial Society, Daily Record, December 17, 1901.

The Act 1906, ch. 146, appropriated \$50,000 for the improvement of a tract of land near Loch Raven, Baltimore County, by the erection of additional buildings for the House of Refuge and the equipment of same. The Act 1906, ch. 522, appropriated a similar sum for a like purpose to St. Mary's Industrial School.

1908, ch. 132.

517A. The Mayor and City Council of Baltimore are further authorized and empowered to appropriate for repairs, permanent improvements and additions to the buildings and grounds now used or hereafter to be used by the Female House of Refuge and its successor such additional sum or sums of money as in their judgment shall from time to time be required for those purposes.

1908, ch. 499.

517B. The Mayor and City Council of Baltimore are further authorized and empowered to appropriate for repairs, permanent improvements and additions to the buildings and grounds now used or hereafter to be used by the Saint Mary's Industrial School for Boys of the City of Baltimore and its successors, such additional sum or sums of money as in their judgment shall from time to time be required for those purposes.

1910, ch. 169.

517C. The Mayor and City Council of Baltimore are further authorized and empowered to appropriate for the furtherance and support of the prison reform and relief work of the Prisoners' Aid Association of Maryland such sum or sums of money not exceeding the sum of five thousand dollars per annum, as in their judgment shall from time to time be required for those purposes.

1914, ch. 520.

517C. The Mayor and City Council of Baltimore are further authorized and empowered to appropriate for repairs, permanent improvements and additions to the buildings and grounds now used or hereafter to be used by the National Junior Republic, and its successors, such additional sum or sums of money as in their judgment shall from time to time be required for those purposes; and the Mayor and City Council of Baltimore are further authorized and empowered to pay to the National Junior Republic the sum of \$500, carried forward on the books of the Comptroller of Baltimore City to the credit of the National Junior Republic from the appropriation in the Ordi-

nance of Estimates for the year 1912 and a like sum of \$500, carried forward on the books of the Comptroller of Baltimore City from the appropriation to the National Junior Republic in the Ordinance of Estimates for the year 1913, making a total of \$1,000, the said \$1,000 being carried forward to be paid to the National Junior Republic for repairs, permanent improvements and additions to its buildings and grounds, subject to ratification by the General Assembly of Maryland.

1908, ch. 458.

**517d.** That the Mayor and City Council of Baltimore City are hereby authorized and empowered to appropriate annually towards the current expenses of "The Home for Fallen Women of Baltimore City," any sum or sums of money, not exceeding fifteen hundred dollars per annum.

1908, ch. 474.

**517e.** That the Mayor and City Council of Baltimore City are hereby authorized and empowered to appropriate annually towards the current expenses of "The Florence Crittenden Mission of Baltimore City" any sum or sums of money not exceeding fifteen hundred dollars per annum.

1912, ch. 356.

**517f.** That all legacies now existing or hereafter given by persons dying, after the date of this act, and all appropriations made or hereafter to be made by the General Assembly of Maryland, or by the Mayor and City Council of Baltimore, and intended for The Exeter Street Rescue Home for Women, but given or made by its former name of The Home for Fallen Women of Baltimore City instead of its present name, shall remain and inure to the benefit of The Exeter Street Rescue Home for Women.

1878, ch. 442. P. L. L., (1888) Art. 4, sec. 411.

**518.** The Judge of the Criminal Court of Baltimore, the President of the Board of Police Commissioners, and the Marshal of the Police of the City of Baltimore, shall, at such times as they may think proper, visit and inspect the House of Good Shepherd.

## IMMIGRANTS.

1832, ch. 203. 1833, ch. 177. 1834, ch. 34. 1841, ch. 174. 1839, ch. 46. P. L. L., (1860) Art. 4, sec. 250. P. L. L., (1888) Art. 4, sec. 412.

**519.** 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 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.

*See note, Baltimore City Code (1879), page 471.*

P. L. L., (1860) Art. 4, sec. 251. P. L. L., (1888) Art. 4, sec. 413.

**520.** The Mayor, 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 Baltimore, 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 almshouse or hospital or any other institution under their care.

P. L. L., (1860) Art. 4, sec. 252. P. L. L., (1888) Art. 4, sec. 414.

**521.** 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 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 sub-division of this Article.

P. L. L., (1860) Art. 4, sec. 253. P. L. L., (1888) Art. 4, sec. 415.

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

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

P. L. L., (1860) Art. 4, sec. 254. P. L. L., (1888) Art. 4, sec. 416.

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

P. L. L., (1860) Art. 4, sec. 255. P. L. L., (1888) Art. 4, sec. 417.

**524.** The owner or consignee of any vessel may at any time within three days after the landing of such passengers, commute for the bond hereinbefore required, by paying to the City Register the sum of one dollar and fifty cents for each and every passenger reported as hereinbefore required by this sub-division of this Article, and the receipt of such sum by the City Register shall be deemed a full and sufficient discharge from the requirement of giving such bond.

P. L. L., (1860) Art. 4, sec. 256. P. L. L., (1888) Art. 4, sec. 418.

**525.** 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 bonds or pay the commutation money aforesaid.

P. L. L., (1860) Art. 4, sec. 257. P. L. L., (1888) Art. 4, sec. 419.

**526.** 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.

P. L. L., (1860) Art. 4, sec. 258. P. L. L., (1888) Art. 4, sec. 420.

**527.** 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.

P. L. L., (1860) Art. 4, sec. 259. P. L. L., (1888) Art. 4, sec. 421.

**528.** The Mayor and Register shall pay over to the Supervisors of City Charities, semi-annually, three-fifths of all sums of money arising from commutation by owners or consignees of vessels as aforesaid, which shall be appropriated by said 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.

P. L. L., (1860) Art. 4, sec. 260. P. L. L., (1888) Art. 4, sec. 422.

**529.** All money received by the Mayor or Register for penalties and forfeitures imposed by this sub-division of this Article shall be distributed and paid by the Mayor and City Council 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 Supervisors of City Charities.

P. L. L., (1860) Art. 4, sec. 261. P. L. L., (1888) Art. 4, sec. 423.

**530.** The City Register shall be entitled to two per centum upon the amount of money collected under this sub-division of this Article.

P. L. L., (1860) Art. 4, sec. 262. P. L. L., (1888) Art. 4, sec. 424.

**531.** Nothing contained in the twelve next preceding sections shall be deemed to extend to any ambassadors, ministers, consuls or agents of foreign governments arriving as passengers in the port of Baltimore.

## INSPECTIONS, WEIGHTS AND MEASURES.

### *Barrels.*

1890, ch. 332, sec. 1. P. G. L., (1904) Art. 97, sec. 27. 1906, ch. 331.

**532.** The standard barrel for the measurement of all green peas or beans in the hull, which are sold by the bushel, shall be of the following dimensions, namely: diameter of said barrel at the top shall be eighteen and three-fourths inches inside the staves; the diameter at the bottom inside the staves shall be sixteen and one-fourth inches; and the depth of said barrel shall

be twenty-six inches inside; and to contain in all six thousand two hundred and fifty-three and three-fourths cubic inches, measurement by said barrel to be struck measure.

1890, ch. 332, sec. 2. 1892, ch. 486. P. G. L., (1904) Art. 97, sec. 27.  
1906, ch. 331.

**533.** The dimensions of any barrel so used shall be stamped by the inspector of weights and dry measures of the City of Baltimore upon the same, in three conspicuous places, and any person using a barrel for the measurement of peas, beans and like farm products when sold by the bushel, without being so stamped, shall be fined not less than one hundred dollars, or more than five hundred dollars; said fine to be collected as other fines are now collected.

Note provisions of Act, 1906, ch. 331.

1892, ch. 486.

**534.** It shall be the duty of said Inspector of Weights and Measures and any measurer of the City of Baltimore, from time to time to inspect the barrels used for the measurement of said peas, beans and other farm products, and to see that the provisions of this sub-division of this Article are complied with; and upon the conviction of any person or corporation under the provisions of this sub-division of this Article, one-half of the fine imposed shall be paid to said Inspector of Weights and Measures of the City of Baltimore.

## COAL.

1880, ch. 382. P. L. L., (1888) Art. 4, sec. 428. 1912, ch. 838.

**535.** Every person, firm or corporation dealing in or selling mineral coal or coke within the City of Baltimore, and every person, firm or corporation owning, occupying, leasing or maintaining yards or wharves used for the sale, storage or handling of coal or coke in said city, shall maintain scales of suitable capacity within or adjacent to said yards or wharves. Any violation of the provisions of this section shall be a misdemeanor and shall be punishable by a fine of not more than \$10.00 for each and every day that said violation shall continue.

1880, ch. 382. P. L. L., (1888) Art. 4, sec. 429. 1912, ch. 838.

**536.** Every person, firm or corporation dealing in or selling mineral coal or coke within the City of Baltimore shall cause all coal or coke so sold to be weighed upon the scales maintained in accordance with the provisions of the preceding section. Any

violation of the provisions of this section shall be a misdemeanor and shall be punishable by a fine not exceeding \$25.00 for each and every cart, wagon or other load of said coal or coke sold without such weighing.

1880, ch. 382. P. L. L., (1888) Art. 4, sec. 430. 1912, ch. 838.

**537.** It shall be the duty of any police officer of Baltimore City on demand of the purchaser made prior to the unloading of the cart, wagon or other vehicle in which coal or coke is delivered to said purchaser, or whenever such police officer has reason to believe that any cart, wagon or other vehicle containing coal or coke contains a less weight than that stated upon the card or ticket hereinafter in the next succeeding section provided for, to take such cart, wagon or other vehicle to the nearest or most convenient State, city or available private scale and have it weighed; and it shall be the duty of the party so weighing to give a written certificate of the weight. No additional charge shall be made for hauling coal or coke to any scales to be weighed. Any violation of the provisions of this section and any refusal of any driver or owner of any cart, wagon or other vehicle to take such cart or other vehicle to such scales to be weighed as aforesaid, and any delivery or attempt to deliver a weight of coal or coke less than that indicated upon the face of the card or ticket hereinafter in the next succeeding section provided for shall be a misdemeanor, and shall be punishable by a fine not exceeding the sum of \$50.00 for each and every offense; provided, however, that in all weighings made under the provisions of this section, three per centum of the net weight shall be allowed for variation of scales, and provided further that whenever such weighing is made upon a private scale, and said load is found to be under weight, the seller of such coal or coke shall be notified before said load is dumped, and shall have the right to demand that said coal or coke shall be reweighed upon a State or city scale.

1880, ch. 382. P. L. L., (1888) Art. 4, sec. 431. 1900, ch. 524.  
1912, ch. 838.

**538.** It shall be the duty of every seller of coal or coke to send with each and every load of coal or coke sold by him a card or ticket which shall indicate on its face in plain characters the seller's name, the date, the weight of coal or coke contained in the cart, wagon or other vehicle in which it is being transported, and any violation of the provisions of this section on the part of any seller of coal or coke shall be a misdemeanor and punishable by a fine of not more than \$10.00 for each and every offense.

1880, ch. 382. 1912, ch. 838.

**539.** A compensation of twenty-five cents shall be paid per ton to the parties weighing the coal or coke under the foregoing sections, said sum for weighing to be paid by the seller if the coal or coke is deficient in weight, otherwise to be paid by the purchaser; if said coal is ordered weighed by a policeman, and there be found no deficiency, the cost of weighing shall be paid by the Comptroller of Baltimore City.

1900, ch. 650. 1912, ch. 838.

**539A.** The Board of Police Commissioners shall from time to time detail police officers for such time and in such number, not exceeding one for each of the eight districts of the City of Baltimore, as the marshal of police shall deem necessary. Such policemen shall be charged with the duty of enforcing the provisions of this sub-division for the benefit of the public, and specially watching the delivery of mineral coal or coke by carts, wagons or other vehicles, and shall be empowered with authority to weigh any cart, wagon or other vehicle loaded with coal or coke at any time he may elect to do so.

1880, ch. 382. P. L. L., (1888) Art. 4, sec. 433. 1912, ch. 838.

**540.** The provisions of this sub-division of this Article shall not apply to the sale of coal or coke by the single bushel, half-bushel or peck, nor to sales of coal or coke by manifest weight in car or cargo lots. All penalties provided for in this sub-division of this Article when recovered shall be paid to the Comptroller of Baltimore City.

#### GAS METERS.

1876, ch. 356. P. L. L., (1888) Art. 4, sec. 434.

**541.** It shall be the duty of every gas company manufacturing, furnishing and selling gas in the City of Baltimore, to place upon the premises of every consumer using gas, a correct apparatus or meter for registering the consumption of the same, and it shall be the duty of the company to see that said apparatus or meter is kept in proper working order and condition.

*Blondell v. Consold. Gas Co.*, 89 Md. 744.

1876, ch. 356. P. L. L., (1888) Art. 4, sec. 435.

**542.** It shall not be lawful for said company, under any circumstances, to charge or collect for any greater amount of gas than is registered by said apparatus or meter.



1876, ch. 356. P. L. L., (1888) Art. 4, sec. 436.

**543.** Any consumer may, at any time, cause said apparatus or meter to be tested by the Superintendent of Lamps and Lighting or one of his assistants, who shall make said test in the presence of the consumer and of an agent of the gas company, by which the gas may be supplied, if desired, and shall furnish to the consumer a certificate under oath of the true condition and working of said apparatus or meter; and if it shall be found, upon any such test, that said apparatus or meter is registering gas in favor of said company, then, in the absence of any fraud upon the part of the consumer, the said company shall refund to the consumer an amount in lawful money equal to the percentage that the said apparatus or meter has been registering too fast, upon the bills of said consumer, registered by said apparatus or meter, for the four months next preceding the said test, unless the said company can prove that such inspection and certificate do not show the correct result; and in case such refunding does take place, the said company shall also pay the expenses incurred in making said test.

#### GAUGERS OF CASKS AND LIQUORS.

1872, ch. 264, sec. 1. P. L. L., (1888) Art. 4, sec. 437.

**544.** Any citizen of the State of Maryland, on application to the Clerk of the Court of Common Pleas in the City of Baltimore, and on paying one hundred dollars to the said clerk, shall be entitled to receive a license to act as gauger of casks and liquors, for the term of one year from the date thereof. The person applying for said license shall, at the time of receiving the same, take and subscribe before said clerk, an oath that he will honestly and faithfully discharge the duties of said office.

1872, ch. 264, sec. 2. P. L. L., (1888) Art. 4, sec. 438.

**545.** No person engaged in vending or trading in or manufacturing casks or liquors individually, or as a partner, or as agent, clerk or employee of a trader, vender or manufacturer of said articles, or either of them, or any commissioned officer, shall be licensed to act as gauger of casks and liquids.

1872, ch. 264, sec. 3. P. L. L., (1888) Art. 4, sec. 439.

**546.** Any person may sell, export or otherwise dispose of any foreign or domestic liquors in casks, without having the same gauged by a licensed gauger, but in cases of difference between the buyer and seller as to the quantity, either party may call in a gauger, and his judgment shall bind the parties.

1872, ch. 264, sec. 4. P. L. L., (1888) Art. 4, sec. 440.

**547.** The gaugers shall procure and use a correct set of gauging instruments, and as soon as they have ascertained the capacity of any cask they shall distinctly mark with marking irons the capacity on the bilge near the bung, and prefix the letter M., for the State of Maryland, and the first letter of the surname of the gauger who does the gauging; and any cask containing such liquor, to be merchantable, must be round at the bilge and heads, the staves thereof to be seasoned white oak, free from any injurious portion of 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 of wood, not less than twelve; and at least not less than twelve on all double barrels and hogsheads; and if any cask containing such liquor shall be found deficient in any of these respects by said gauger, he shall direct it to be coopered, or other casks substituted therefor, at the expense of the owner or seller; and if any such cask shall be fraudulently made, the owner or seller thereof, or his agent, shall forfeit the cask to the use of the State.

1872, ch. 264, sec. 5. P. L. L., (1888) Art. 4, sec. 441.

**548.** The said gaugers, in order to ascertain the capacity of casks, shall conform to the Baltimore standard of wine measure; and if any cask or vessel gauged or marked by said gauger shall in its capacity be found lacking or exceeding one or more gallons in a cask of a larger size, the gauger shall forfeit and pay two dollars for each gallon so lacking or exceeding the number of gallons marked by him on the cask.

1872, ch. 264, sec. 6. P. L. L., (1888) Art. 4, sec. 442.

**549.** If any person shall alter any mark, or number marked or set down by any gauger, thereby to deceive and defraud the purchaser of distilled spirits, wine, molasses or other liquid merchandise so gauged and marked, or shall put any false mark or number on said cask, or upon any certificate intended to counterfeit the mark or number 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.

1872, ch. 264, sec. 7. P. L. L., (1888) Art. 4, sec. 443.

**550.** Every gauger so licensed shall be entitled to demand and receive from the person at whose request he shall gauge any

cask, the following fees, to wit: For gauging casks not exceeding forty gallons, ten cents per cask; for casks of larger size, fifteen cents.

1872, ch. 264, sec. 8. P. L. L., (1888) Art. 4, sec. 444.

**551.** Any person not being properly licensed, who shall act as gauger, or being so licensed shall act as said gauger outside the limits of the said city, shall forfeit and pay to the Sheriff of the city the sum of three hundred dollars; said penalty to be imposed as a fine by the Criminal Court, on presentment and indictment by the Grand Jury and conviction in due course of law, and one-third of the penalty shall be paid by the Sheriff to the informer, and the residue shall be accounted for by the Sheriff to the treasury as other fines; if any person so licensed shall be guilty of a fraud by reason of collusion with any parties, he shall be deemed guilty of misdemeanor, and shall, on presentment and indictment therefor, and conviction thereof, forfeit and pay a fine of not less than five hundred dollars or more than one thousand dollars for every such offence, or be imprisoned, in the discretion of the court, for a time not exceeding three years, or both, and shall also be liable in damages at the suit of the party aggrieved.

## HAY AND STRAW.

P. L. L., (1860) Art. 4, sec. 410. 1864, ch. 339. 1867, ch. 381.  
P. L. L., (1888) Art. 4, sec. 470.

**552.** The Governor, by and with the advice and consent of the Senate, shall biennially appoint four inspectors of hay and straw for the City of Baltimore.

P. L. L., (1860) Art. 4, sec. 411. P. L. L., (1888) Art. 4, sec. 471.

**553.** 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.

P. L. L., (1860) Art. 4, sec. 412. 1861, ch. 35. 1867, ch. 381.  
P. L. L., (1888) Art. 4, sec. 472. 1896, ch. 375.

**554.** All hay and straw brought to the City of Baltimore may be weighed at the State hay scales as now established by law, by one of the inspectors, at the rate of one hundred pounds to the hundredweight, making a reasonable allowance for the moisture thereof, as well as the mud or other substance attached to the wagon, cart or sled containing the same.

P. L. L., (1860) Art. 4, sec. 415. P. L. L., (1888) Art. 4, sec. 474.  
1896, ch. 375.

**555.** The inspector shall give a certificate of every load of hay or straw weighed by him, stating the gross and net weight of such straw or hay, and wagon, cart or sled.

P. L. L., (1860) Art. 4, sec. 413. 1882, ch. 130.  
P. L. L., (1888) Art. 4, sec. 473.

**556.** 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 per hundredweight; and for weighing hems, cable, anchors, dye-woods, barks, etc., two cents per hundred pounds; and for inspecting and weighing corn in the ear and corn husks, one cent per hundred pounds.

P. L. L., (1860) Art. 4, sec. 416. P. L. L., (1888) Art. 4, sec. 475.  
1894, ch. 105. 1896, ch. 375.

**557.** If any person bringing hay or straw to said city shall neglect to have the same weighed by the said inspector, or shall be detected in having stones, rubbish, wood or anything else concealed in his load, or shall in any manner change the condition of his cart, wagon, carriage or sled, with fraudulent intention, he shall forfeit and pay for each and every such offense the sum of five dollars; *provided*, however, any person bringing hay or straw to market, who shall sell and deliver the same for consumption west of Gwynn's Falls, shall not be subject to the penalty herein recited as to not having said load of hay or straw weighed by the weighmaster at the western hay scales, provided he shall tender to the weigher of hay and straw, at the western hay scales, on the day of delivery of said hay or straw, such fee as is prescribed by law, said fee to be ascertained by the certificate of the person weighing said hay or straw; and when said certificate of private weigher is presented to the weighmaster of hay and straw at the western hay scales, the said weighmaster shall retain the certificate of the private weigher, and issue to the person presenting the certificate from the private weigher, a certificate from the book of the weighmaster at the western hay scales corresponding with the certificate of the private weigher, for which the weighmaster at the western hay scale shall collect the fee prescribed by law; any seller of hay or straw failing to comply with the provisions of this section or failing to present the certificate of the private weigher to the weighmaster at the western hay scales, shall be subject to a fine of five dollars for each and every such offence.

1894, ch. 105.

**558.** Any private weigher, who shall under a false certificate, and any seller of hay or straw who shall present a false certificate to the weigher of hay and straw at the western hay scales, shall be subject to a fine of five dollars and costs for each and every such offence.

P. L. L., (1860) Art. 4, sec. 417. P. L. L., (1888) Art. 4, sec. 476.

**559.** 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.

P. L. L., (1860) Art. 4, sec. 418. P. L. L., (1888) Art. 4, sec. 477.

**560.** 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 reweighing shall be free of charge.

P. L. L., (1860) Art. 4, sec. 419. P. L. L., (1888) Art. 4, sec. 478.

**561.** The said inspector shall, at all times when required, weigh hempes, cables, anchors, dye-woods, barks, roots, etc.

1864, ch. 384. P. L. L., (1888) Art. 4, sec. 479.

**562.** 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.

P. L. L., (1860) Art. 4, sec. 421. P. L. L., (1888) Art. 4, sec. 480.

**563.** The weighing apparatus shall be adjusted at least once in six months by the standard of weights for the City of Baltimore, the expenses of which, together with all the expense for repairs, shall be paid by the inspectors.

1864, ch. 384. P. L. L., (1888) Art. 4, sec. 481.

**564.** The inspectors shall severally account for, under oath, and pay over to the Treasurer, quarterly, all moneys received

by them as inspectors, after retaining for their services three-fourths of all moneys received under sections 556 and 560, and one-fifth of all moneys received under section 562 of this Article.

1867, ch. 241. P. L. L., (1888) Art. 4, sec. 482.

**565.** 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 hundredweight, 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.

1867, ch. 241. P. L. L., (1888) Art. 4, sec. 483.

**566.** 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 received by him 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.

1867, ch. 241. P. L. L., (1888) Art. 4, sec. 484.

**567.** Upon failure and refusal of any agent or owner of live-stock to pay for weighing the same he may impound any number of live-stock he may deem necessary to 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 agent upon payment of all just and proper charges.

1867, ch. 241. P. L. L., (1888) Art. 4, sec. 485.

**568.** If the inspector shall neglect or delay to weigh or cause to be weighed any live-stock brought to said scales for the purpose of being weighed, for a time not exceeding twenty-four hours after he shall have been requested to weigh the same, he shall forfeit and pay to the owner of such live-stock or his agent the sum of ten cents an hour upon each and every head thereof for so many hours as he shall omit or neglect to weigh the same, over and above the term of twenty-four hours, Sunday excepted, to be recovered in an action of debt before a Justice of the Peace, with costs.

1870, ch. 256. P. L. L., (1888) Art. 4, sec. 486.

**569.** The said inspector of hay and straw shall execute a bond to the State in addition to the bond now provided by law to be given by said inspector, to be approved by the Comptroller, in the penal sum of one thousand dollars, conditioned for the full performance of all acts and things required by him as weigher of live-stock at said scales, and to pay all damages that may be sustained by reason of wilful omission, refusal or neglect to discharge said duties; which bond shall be filed with the State Comptroller; but said inspector or weigher of hay and straw shall be chargeable with the payment of a tax of ten dollars, and no more, for his commission.

P. L. L., (1860) Art. 4, sec. 423. P. L. L., (1888) Art. 4, sec. 487.

**570.** All fines and forfeitures imposed under sections 557 to 559 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.

#### MANURE.

P. L. L., (1860) Art. 4, sec. 489. P. L. L., (1888) Art. 4, sec. 507.

**571.** A cart load of manure shall contain forty cubic feet.

#### STEAM BOILERS.

1872, ch. 153. P. L. L., (1888) Art. 4, sec. 509.

**572.** The Governor shall biennially appoint two suitable persons who are well skilled in the construction and use of steam engines and boilers, and in application of steam thereto, whose

duty it shall be to inspect steam boilers in the City of Baltimore, as hereinafter specified and directed; said inspectors before entering on their duties, shall make oath before a Justice of the Peace, that they will faithfully perform the duties of their office without fear, partiality or favor; that they are not, and will not during their term of office, be connected with, or interested in the manufacture of steam boilers, engines or machinery applicable thereto, and that they will not during their term of office, accept any money, gift, gratuity or consideration from any person, and shall give bond, to be approved by the State Comptroller, in the sum of five thousand dollars each, for the faithful discharge of their duties.

1872, ch. 153. P. L. L., (1888) Art. 4, sec. 510.

**573.** The City of Baltimore is divided into two districts, which shall be known as the first and second steam boiler inspection districts; the first district shall embrace what is now known as the Eastern, Northeastern and Southern Police Districts; the second shall embrace what is now known as the Central, Western, Northwestern and Southwestern Police Districts of said city; and the Governor in appointing the inspectors shall assign each to his respective district.

1872, ch. 153. P. L. L., (1888) Art. 4, sec. 511.

**574.** The inspectors, before entering on the discharge of their duties, shall provide themselves with an office in a central part of said city, also with the necessary apparatus and appliances for the testing of steam boilers; and they shall give notice for three successive days, through the two daily papers having the largest circulation in said city, of the time and manner in which they shall receive the reports of the locations of steam boilers.

1872, ch. 153. P. L. L., (1888) Art. 4, sec. 512.

**575.** Every owner or renter using a steam boiler in said city, shall, within ten days after the publication of the aforesaid notice, report to the inspector of the district the location of such boiler, under a penalty of fifty dollars for each day a boiler is used and neglected to be reported.

1872, ch. 153. P. L. L., (1888) Art. 4, sec. 513.

**576.** The inspector of each district shall give six days' notice in writing to each owner or renter of a steam boiler, or the engineer or person in charge, of the time when he will inspect such boiler; and such owner or renter shall have such boiler ready for



inspection, in compliance with the requirements of said notice, and shall furnish such assistance as the inspector may require, under a penalty of fifty dollars for such failure or neglect, and a further penalty of fifty dollars for each day any such boiler is used without a certificate of inspection.

1872, ch. 153. P. L. L., (1888) Art. 4, sec. 514.

577. It shall be the duty of each inspector, once at least in every year, to inspect all stationary steam boilers of three horse power and upwards, used within the limits of his district, subjecting them to a hydrostatic test of at least twenty-five per cent. in excess of the steam pressure allowed, and satisfy himself, by a thorough external and internal examination, (if possible) with a hammer, that the boilers are free from danger from corrosion or other defects, are well made of good material, the openings for the passage of water and steam, respectively, and all pipes and tubes exposed to heat are of proper dimensions, and free from obstruction; that the flues and tubes if any are circular in form, the furnaces in proper shape, and the fire line of the furnaces is at least two inches below the minimum water line of the boilers; and shall also satisfy himself that the safety valves are of suitable dimensions, sufficient in number and well arranged, and that the weights are properly adjusted so as to allow no greater pressure in the boiler than the amount prescribed in the certificate of inspection; that there is a sufficient number of gauge-cocks, a steam gauge, a coupling cock in suitable position for attaching the hydrostatic test, that means for blowing out are provided, so as to thoroughly remove the mud and sediment from all parts of the boilers when they are under the pressure of steam, and that fusible metals are properly inserted so as to fuse by the heat of the furnaces when the water in the boilers shall fall below the prescribed limits, and that adequate and certain provision is made for an ample supply of water at all times; when the inspection is completed and the inspector approves the boiler, he shall make and subscribe a certificate of inspection, stating the condition of the boiler, the number of years or months it has been in use, and the pressure of steam allowed; and no greater pressure than that allowed by the certificate shall be applied to such boiler. In limiting pressure, whenever the boiler under test will, with safety, bear the same, the limit desired by the owner shall be the one certified; and such certificate of inspection shall be framed under glass, and kept in some conspicuous place on the premises where said boiler referred to is used; and if the inspector shall deliver or cause to be delivered to the owner or renter of any boiler a certificate of

inspection without having first subjected the said boiler to the tests as herein provided, he shall forfeit his bond, and upon conviction shall be removed from office by the Governor.

1872, ch. 153. P. L. L., (1888) Art. 4, sec. 515.

**578.** In addition to the annual inspection, it shall be the duty of the inspector to examine all boilers within the limits of their respective districts once at least in every three months and if deemed necessary, apply the hydrostatic test; and if on such examination the inspector shall find evidence of deterioration in strength, he shall revoke the certificate and issue another, assigning a lower rate of pressure; and if the defect be of such character as to make the boiler dangerous, the inspector shall notify the owner or renter in writing, stating in the notice what is required, and order the use of the boiler discontinued until the necessary repairs are made; and if he considers it beyond repair, he shall condemn it; and if the owner or renter shall refuse or neglect to comply with the requirements of the inspector, and shall, contrary thereto, and while the same remains unreversed, use the boiler, he shall be liable to a penalty of not less than one hundred dollars for each day such boiler is used, and in addition thereto shall be liable for any damage to persons or property which shall occur from any defects, as stated in the notice of the inspector.

1872, ch. 153. P. L. L., (1888) Art. 4, sec. 516.

**579.** Any owner or renter of a boiler, who shall consider himself aggrieved by the action of the inspector, under the provisions of the preceding section, may, within ten days after such inspection, notify the inspector of the fact, and demand a re-examination of the said boiler; the owner or renter shall select a practical engineer, who, with the inspector, shall select a third person, skilled in the manufacture and use of steam boilers, which said two persons, after taking an oath as reviewers, shall, together with the inspector, carefully examine the said boiler, and the decision of any two of these shall be final; should the decision of the inspector be sustained, the said owner or renter shall pay the expense of such review; but should it be reversed, the inspector shall restore the certificate, and the expense of the review shall be paid by the State; such reviewers shall receive five dollars for each day or part of a day they are engaged in making such review.

1872, ch. 153. P. L. L., (1888) Art. 4, sec. 517.

**580.** Any person erecting or using a steam boiler without having the same inspected by the inspector of the district in

which the said boiler is located, shall pay a fine of one hundred dollars, and fifty dollars for each day any such boiler is used without being inspected; and any person who shall alter or change a steam gauge or weight on a safety valve for the purpose of carrying a greater pressure of steam on a boiler than that allowed by the certificate of inspection, shall be liable to a fine of five hundred dollars; and any owner or renter of a steam boiler who shall neglect or refuse to place his certificate of inspection on the premises, as prescribed in section 577 hereof, shall pay a fine of five dollars for each day's refusal or neglect.

1872, ch. 153. P. L. L., (1888) Art. 4, sec. 518.

**581.** The inspector shall have power to examine the engineers and assistants in charge of boilers, and if any engineer or assistant is found incompetent or addicted to intemperance, the inspector shall notify the owner or renter, and withdraw the certificate of inspection until such engineer or assistant is displaced.

1872, ch. 153. P. L. L., (1888) Art. 4, sec. 519.

**582.** Before issuing any certificate of inspection, the inspector shall demand and receive from the owner or renter of the boiler, as a compensation for the inspection, and the examinations to be made during the year as hereinbefore provided, the following sums: For every boiler of ten horse-power or less, five dollars; when the boiler is above ten horse-power, five dollars for the first ten, and twenty-five cents additional for each horse-power in excess of that number.

1872, ch. 153. P. L. L., (1888) Art. 4, sec. 520.

**583.** It shall be the duty of each inspector to keep a correct record of the locations of all boilers in his district, when each boiler was inspected, the condition of the same at the time of inspection, the instructions given to the engineers in charge, the certificates issued, the amount of steam pressure allowed in each certificate, and the boilers condemned or ordered to be repaired; also a correct account of all money received or paid out; and they shall report the same annually to the State Comptroller.

1874, ch. 96. P. L. L., (1888) Art. 4, sec. 521.

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

1872. ch. 153. P. L. L., (1888) Art. 4, sec. 522.

585. Nothing in this sub-division of this Article shall conflict with the ordinance of the Mayor and City Council of Baltimore which requires their permission for the erection of steam boilers in that city.

1886. ch. 503. P. L. L., (1888) Art. 4, sec. 523.

586. Every steam boiler insurance company doing business in this State shall have a resident inspector, whose duty it shall be to make inspections of steam boilers submitted for insurance to such steam boiler insurance company; and any owner or renter of a steam boiler who has the same insured in a steam boiler insurance company doing business in this State, in compliance with the laws thereof, and having a resident inspector and an established system of inspection, must immediately after the first annual inspection in each year by such resident inspector of such steam boiler insurance company, present to the State inspector of the district in which the said steam boilers are located, the certificate of inspection of the said company; and the said company shall be charged and chargeable with a fee of one dollar for each and every boiler so inspected and insured, which shall be paid to the State Inspector with such certificate: *provided*, that when there is more than one steam boiler belonging to the same owner or renter so insured, then the fee so chargeable to the insurance company shall be one dollar per boiler for the first five, and one dollar for each additional five or fraction thereof over and above the first five; and upon the acceptance of the provisions of this section by the owner or renter of said steam boiler, the said owner or renter shall be exempted from the requirements of this sub-division of this Article.

1872. ch. 151. P. L. L., (1888) Art. 4, sec. 524.

587. If either inspector neglects to discharge his duties as prescribed in this sub-division of this Article, he shall forfeit his bond, and shall be removed from office by the Governor.

1872. ch. 151. P. L. L., (1888) Art. 4, sec. 525.

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

1872. ch. 151. P. L. L., (1888) Art. 4, sec. 526.

589. All fines and penalties imposed in this sub-division of this Article shall be recoverable by indictment before the Criminal Court of Baltimore, or before any Justice of the Peace of said city, in the name of the inspector, for the benefit of the State.

## WOOD CARTS.

1878. ch. 183. P. L. L., (1888) Art. 4, sec. 527. 1894, ch. 313.

**590.** The Governor shall biennially appoint, by and with the consent of the Senate, one competent person, whose duty it shall be to measure and stamp all carts or vehicles engaged in hauling wood from wharf and yard within the corporate limits of the City of Baltimore; and it shall further be the duty of the said measurer to measure and stamp all carts or vehicles engaged in hauling sawed and split wood for the purpose of selling the same within the corporate limits of the City of Baltimore; the said measurer shall have power to appoint deputies if he shall find it necessary to facilitate the work; and he or his assistants shall give certificates to the owners of said carts or vehicles, which shall hold good for one year from date; all such certificates shall terminate on the first day of May, annually, and shall be applied for on said day, or within thirty days thereafter; and in all cases where said certificate shall not have been renewed within the thirty days aforesaid, a new certificate shall be necessary, to be dated and paid for from the first day of May, as in case of renewal, unless some repairs or alteration be necessary to change the same, for which services he shall receive the sum of one dollar for each cart or vehicle so inspected and marked by him, to be paid by the party at whose request the services were performed; the said measurer or his deputies shall be in no way interested as clerks, or otherwise engaged in the purchase or sale of fire-wood, other than for their own use.

1894. ch. 313.

**591.** It shall be unlawful for any person, in either purchasing or selling seasoned cord wood in quantities of not less than one-half cord at any one time, to measure and settle for the same, except on the basis of one hundred and twenty-eight cubic feet to each cord of wood; and the said contents of a cord of wood shall be ascertained by lineal or outside measurement, as follows: It shall be eight feet long, four feet high and four feet wide.

1894, ch. 313.

**592.** Any person violating the provisions of the preceding section, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than fifty nor more than one hundred dollars, one-half to go to the informer.

1876, ch. 46. P. L. L., (1888) Art. 4, sec. 528.

**593.** The said measurer and his deputies, before entering upon their duties of office, shall take the following oath or affirmation, as the case may be, before some Justice of the Peace: "I do solemnly swear (or affirm) that I will faithfully, truly and impartially, according to the best of my skill and judgment, execute and perform the office and duty of measurer of carts according to the true intent and meaning of this sub-division of this Article, so help me God."

1878, ch. 183. P. L. L., (1888) Art. 4, sec. 529. 1894, ch. 313.

**594.** Said measurer shall locate himself in some suitable section of the city, where he can be found, where the greatest quantity of wood is for sale: he shall plainly mark, by a brand on the standards of each side of said carts or vehicles, in such a manner as that the purchaser or consumer of fire-wood may see the quantity contained in each eighth, quarter, half or cord of wood so purchased by him, the standard of measurement to be one hundred and twenty-eight cubic feet to the cord of well stored and packed cord wood, or one hundred and sixty cubic feet of sawed and split wood.

1886, ch. 315. P. L. L., (1888) Art. 4, sec. 530. 1894, ch. 313.

**595.** All stick wood sold by retail in the City of Baltimore, shall be measured in a solid frame made of wood or iron; a frame to measure one-eighth of a cord shall be two feet wide and two feet high; a frame to measure one-fourth of a cord shall be three feet wide and two feet eight inches high; a frame to measure three-eighths of a cord shall be four feet wide and three feet high; and a frame to measure one-half a cord shall be four feet wide and four feet high, these various dimensions being all intended to import inside measurement; all frames shall be measured and stamped every year by the inspector just as carts are measured and stamped.

1886, ch. 315. P. L. L., (1888) Art. 4, sec. 531.

**596.** If any wood dealer shall sell stick wood by retail in the City of Baltimore, measured otherwise than in a frame, he shall be subject to the penalty of five dollars for each offence; one-half of the penalty to go to the informer; said penalty to be recovered before some Justice of the Peace.

1886, ch. 315. P. L. L., (1888) Art. 4, sec. 532.

**597.** The two preceding sections shall not apply to the measurement of sawed and split wood.

1878, ch. 183, sec. 4. P. L. L., (1888) Art. 4, sec. 533.

**598.** If any owner of a cart or vehicle to be used in hauling fire-wood in the City of Baltimore shall neglect to have such cart or vehicle so inspected, and if any carter or person shall alter the marks of said carts or vehicles after the same have been so inspected, or shall alter the measurement of said fire-wood by increasing or taking from the same, or neglect to have said carts or vehicles stamped, as provided for in this sub-division of this Article, by the first day of June of each year, or if any dealer shall sell the aforesaid cord or sawed and split wood to any cart or vehicle not properly stamped by the measurer or his deputies, provided for by this sub-division of this Article, he shall be subject to the penalty of five dollars for each offence, to be recovered as small debts are now recovered, before some Justice of the Peace, for the use of the City of Baltimore.

1878, ch. 183, sec. 5. P. L. L., (1888) Art. 4, sec. 534.

**599.** In case of dispute between the purchaser and seller of any lot of fire-wood, the measurer or his deputy, appointed under this sub-division of this Article, may act as arbitrator between said parties, and his decision shall be final; for which services he shall receive the sum of six and one-quarter cents for each cord of wood so inspected and measured by him, to be paid by the party at whose request said service was performed; the said measurer or deputy to give a certificate of the number of cords contained in each lot.

### JONES' FALLS.

1870, ch. 115. P. L. L., (1888) Art. 4, sec. 579.

**600.** None of the provisions of this Article in reference to constructing sewers and opening and paving streets in the City of Baltimore shall apply to the construction of the sewers, and to the opening and paving of the streets and avenues for which provision is made in this Article relating to Jones' Falls, save in so far as the said provision may be made applicable thereto by an ordinance of the Mayor and City Council of Baltimore, passed for the purpose; and *provided* further, that no appeal shall lie from the decisions of the Baltimore City Court in proceedings in said Court under the provisions of this Article relating to Jones' Falls.

1870, ch. 115. P. L. L., (1888) Art. 4, sec. 580.

**601.** All of the provisions of an ordinance of the Mayor and City Council of Baltimore, entitled an ordinance to provide for

the improvement of Jones' Falls within the limits of the City of Baltimore, approved January 31, 1870, shall have the same force, effect and operation, and be in all respects as valid as if the said ordinance had been passed after the approval of the Act of 1870, chapter 115, or had been passed after the enactment of a law by the General Assembly of Maryland authorizing and empowering the Mayor and City Council of Baltimore to pass such an ordinance.

### JURORS.

P. L. L., (1860) Art. 4, sec. 601. 1860, ch. 308. 1867, ch. 401, sec. 4. 1882, ch. 67. 1884, ch. 450. P. L. L., (1888) Art. 4, sec. 583.

**602.** The Judges of the Supreme Bench of Baltimore City, or a majority of them, shall meet in some one of the courtrooms of the City of Baltimore on such days as the said Judges, or a majority of them, shall appoint, in the month of April in each year, and shall on such days of meeting, select fairly and impartially, and by the exercise of their best judgment, the names of seven hundred and fifty persons, or thereabout, qualified under the laws of this State to be grand and petit jurors in the City of Baltimore. They shall cause the names of the persons so selected to be entered in a proper book, and shall verify the list so made up by their certificate and signatures. The said book containing the said list shall be placed in the custody of the Clerk of the Superior Court of Baltimore City.

Clare v. State, 30 Md. 163. Avirett v. State, 76 Md. 535. State v. Keating, 85 Md. 188.

P. L. L., (1860) Art. 4, sec. 602. 1860, ch. 308. 1882, ch. 67. 1884, ch. 450. P. L. L., (1888) Art. 4, sec. 584.

**603.** In order to assist the said Judges in making out the list of jurors aforesaid, the City Collector 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 Baltimore City, for the use of said Judges, a certified list of so many of the taxable male inhabitants, resident in the said city, as he may have been directed to furnish by the order of said Judges, or a majority of them, 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 he shall be paid as jurors are paid.

1860, ch. 308. 1882, ch. 67. 1884, ch. 450. P. L. L., (1888) Art. 4, sec. 585.

**604.** The said list of persons, qualified under the laws of this State to be grand and petit jurors in the City of Baltimore,



having been prepared as aforesaid, it shall be the duty of the said Judges of the Supreme Bench of Baltimore City, or a majority of them, to meet in each and every year in some one of the courtrooms of the City of Baltimore, on one or more days to be appointed by them, before the beginning of each regular term of the Criminal Court of Baltimore, which said meeting, or the last of which said appointed meetings shall be at least ten days before the beginning of each of said terms, and to select from said list the names of twenty-three persons, who shall constitute and be the grand jurors for the City of Baltimore for the ensuing term of said Criminal Court of Baltimore; the list of grand jurors so selected shall be attested by the signatures of the Judges selecting the same, and be given forthwith to the Sheriff of Baltimore City, who shall immediately summon the persons so selected, to serve as grand jurors for the City of Baltimore at the ensuing term of the Criminal Court of Baltimore. If any of the grand jurors so selected and summoned shall be shown to be disqualified, or be from any sufficient cause excused from serving, it shall be the duty of the said Judges of the Supreme Bench of Baltimore City, or a majority of them, to re-assemble as soon as they are notified thereof by the Judge of the Criminal Court of Baltimore, and to assemble again, from time to time, if the same be necessary, to correct and complete, in the manner hereinbefore provided for, the said Grand Jury for the City of Baltimore, by the selection of proper persons as aforesaid from the list of qualified jurors made as aforesaid, omitting in said selection the names of persons on said lists who may have been drawn to serve as petit jurors in other Courts of said City at said term. The Judges shall, after so correcting and completing the list of grand jurors for the City of Baltimore, so before made out by them, attest the said list of grand jurors as so corrected, by their certificate and signatures thereto. The Judge of the Criminal Court of Baltimore shall, at the beginning of each term of the said court, designate the foreman of the Grand Jury for the City of Baltimore for the said ensuing term, from among the number of grand jurors selected as aforesaid for said city; and in case of the disqualification, sickness, absence or death of said foreman, or of any foreman of said Grand Jury, may designate another from among the number of said Grand Jury, who shall act as such foreman.

State v. Keating, 85 Md. 188.

1900, ch. 164. 1908, ch. 162.

**604A.** Upon the organization of each grand jury, as provided for in the preceding section, and upon their request there-

for, signified to the judge or judges for the time being especially assigned to and sitting in the Criminal Court of the said city, the said judge or judges may and they are hereby authorized and empowered to appoint a clerk, who shall be a competent stenographer, at a compensation not exceeding the rate of fifteen hundred dollars per annum, to be paid by the Mayor and City Council of Baltimore, which said clerk shall have authority to take and transcribe the testimony given before any grand jury in said City of Baltimore, and whenever required by the State's Attorney shall attend upon and take and transcribe the testimony given at coroner's inquests, and all of the said testimony so taken and transcribed shall be for the exclusive use and benefit of the grand jury and the State's Attorney of said city, unless otherwise ordered by the Court. In addition to the compensation aforesaid to be paid to said clerk by the Mayor and City Council of Baltimore, the said Mayor and City Council of Baltimore shall make compensation to said stenographer for all testimony taken and transcribed by him at any coroner's inquest or inquests, and when requested by the State's Attorney for the use of his office, at a rate not exceeding fifteen cents per hundred words of such testimony.

1900, ch. 164.

**604B.** Any clerk appointed under the provisions of the preceding section shall before he enters upon the duties of his office take and subscribe before the Clerk of the Criminal Court of Baltimore City an oath that he will keep secret all matters and things occurring before such Grand Juries.

1900, ch. 164.

**604C.** It shall be lawful for any stenographer, duly appointed and qualified as herein provided, to attend and be present at the sessions of every Grand Jury empaneled in the said city, and it shall be his duty to take in shorthand the testimony introduced before such Grand Juries and to furnish to the Grand Jury and the State's Attorney of said city a full copy of all such testimony as such Grand Jury or State's Attorney shall require, and he shall not permit any other person to take a copy of the same nor of any portion thereof, nor to read the same nor any portion thereof, nor shall he disclose the character or any of the contents of the same to any person or persons other than the Grand Jury or State's Attorney for said city, except upon the written order of the Court duly made after hearing the State's Attorney. All of the said original minutes shall be kept in the custody of said State's Attorney, and neither the same nor a

copy of the same shall be taken from the office of said State's Attorney excepting for the use of a Grand Jury for said city or for production in Court, without an order of Court first had and obtained, as above provided.

1900, ch. 164.

**604D.** Any stenographer appointed as aforesaid who shall violate any of the provisions of the three preceding sections with regard to secrecy shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not exceeding one thousand dollars or imprisoned in jail not exceeding one year, or be both fined and imprisoned in the discretion of the Court.

1882, ch. 67. 1884, ch. 450. P. L. L., (1888) Art. 4, sec. 586.

**605.** The said Judges of the Supreme Bench of Baltimore City, or one or more of them, shall, at one or more of the meetings provided for in the last preceding section of this sub-division of this Article, after the selection of the grand juries for the City of Baltimore, as provided in the last preceding section, cause all the names selected by the Judges as aforesaid, remaining upon said list of qualified jurors, to be inscribed upon ballots, which shall be of equal size, color and appearance, and shall be closely folded and shall be placed by one of such Judges, with his own hands, on the day of said meeting and immediately before the drawing herein provided for, in a drawing wheel to be provided for that purpose by the Sheriff of Baltimore City, under the direction of said Judges; the said Judge shall then cause the said Sheriff, or such one of his deputies as he shall designate, to appear before him; and it shall be the duty of the said Sheriff or his said deputy, in the presence and in the immediate view of the said Judge or Judges, and of such other persons as may choose to attend, to draw one by one from said wheel the ballots contained therein until four hundred of said ballots have been drawn therefrom; and the said Judge or Judges shall cause the said wheel to be turned upon its axis before the commencement of said drawing, and after the ballots have been deposited therein, and after the drawing of each ballot, and before the drawing of the next, until four hundred of said ballots shall have been drawn; and said Judge or Judges shall forthwith cause the names appearing upon said ballot as drawn, together with the names selected as grand jurors, to be duly recorded in a proper book in the order in which they shall have been chosen, and in which said Judge or Judges shall have seen them drawn as aforesaid, which said Judge or Judges so attending said drawing shall certify at the foot of said list to have been done.

1882, ch. 67. 1884, ch. 450. P. L. L., (1888) Art. 4, sec. 591.

**606.** After four hundred of the names in the box shall have been drawn, as provided by section 605, it shall be the duty of said Judge or Judges who shall have attended said drawing to cause the names of the said several panels, and the names of the other persons drawn as aforesaid, to be entered in two books, in addition to the book provided in section 605, in the order in which the said panels and the names aforesaid were drawn; and the said books shall be certified by the Judge or Judges who shall have attended said drawing, to be true copies of the book prescribed in section 605, and said books shall be denominated jury books for Baltimore City.

*Condemnation Juries.*—Such juries need not be summoned from the jury book.

Balto. Belt R. R. Co. v. Turner, Daily Record, January 12, 1893.

1896, ch. 20. P. L. L., (1888) Art. 4, sec. 591A.

**607.** In addition to the four hundred names to be drawn as provided by section 605 of this Article, it shall be the duty of said Judge or Judges who shall attend said drawing to cause to be drawn in the mode pointed out in said section 605, or in such other mode as shall be prescribed by the Supreme Bench of Baltimore City, one hundred additional jurors, or such other number as shall be deemed necessary to be drawn by the Supreme Bench of Baltimore City which said jurors so drawn, together with the said four hundred jurors, shall, under such regulations as shall be prescribed by the Supreme Bench of Baltimore City, serve from time to time as jurors in the common law courts of Baltimore City, and for such length of time as said courts shall prescribe, and power is hereby conferred upon said Supreme Bench of Baltimore City to prescribe by rule for the mode, time and place for the drawing of jurors, for the organization thereof, and for the distribution among the said several common law courts of Baltimore City, of the jurors whose drawing is provided for by the several sections of this subdivision of this Article, and to regulate the length of time for which the jurors drawn as aforesaid shall serve.

P. L. L., (1860) Art. 4, sec. 609. 1860, ch. 308. 1882, ch. 67. 1884, ch. 450. P. L. L., (1888) Art. 4, sec. 592.

**608.** When the jury books shall have been prepared and certified as directed in the foregoing section, it shall be the duty of the said Judge or Judges by whom the same shall have been so certified, to cause one of the said books to be deposited in the custody of the Clerk of the Superior Court of Baltimore City,

and one in the custody of the Sheriff of Baltimore City, and one shall be retained by the said Judges of the Supreme Bench of Baltimore City, or by such one of their number as they shall appoint for the purpose of verifying the list of persons so delivered as aforesaid to the Clerks or the Sheriff of Baltimore City. And when the said books shall have been delivered to the said Sheriff, 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. And in addition to summoning the said jurors for the said several panels, the said Sheriff shall also summon such additional number of persons, whose names are set down in said book, and as nearly as may be in the order in which their names are so set down, as the said Judges of the Supreme Bench, or a majority of them, shall direct, to appear in the room of the Superior Court of Baltimore City at the same time with the panel for said court. And the said additional number of jurors shall constitute a reserve, from which without further summons, jurors may be selected to serve in lieu of any persons drawn for the regular panels of said court aforesaid, who may not be found, fail to appear, are legally disabled, or are excused or excluded from attending, so that the panels may be completed by selecting from said reserve, in the following order: First, for the Superior Court of Baltimore City; second, the Criminal Court of Baltimore; third, the Baltimore City Court; and fourth, the Court of Common Pleas. And until said panels have been completed, said reserves shall be required, upon the order of the several courts, to proceed from one to the other in the order above mentioned; and when all said panels have been completed, those persons summoned for such reserve, and not empaneled, shall be discharged, but shall not thereby be excused from service when resummoned; and in empanelling juries for said reserve their names shall be called in the order in which they appear in said book; and the names of said reserves shall first be called in the Superior Court of Baltimore City, the Judge of which Court shall determine upon their qualifications as jurors, and the right or claim of any members of said reserve to be excused or exempted from service.

Clare v. State, 30 Md. 166.

1882, ch. 67. 1884, ch. 450. P. L. L., (1888) Art. 4, sec. 593.

**609.** If the full panels of jurors for the said several courts shall not be obtained from the jurors so drawn for the several panels of the said courts, as herein provided, or from said reserve, by reason of some of said jurors or reserve being legally

disabled or excused from attending, or not being found, or from other causes, the Sheriff, upon being notified by any of said Judges what additional number of jurors is required for the court in which he presides, shall proceed to complete the said panel in which jurors are needed, by summoning in the stead of such jurors such number of persons as said Judge may direct, of the persons whose names are set down in the said jury book next after the regular panels, and after those persons who have been summoned as the reserve hereinbefore provided for; and he shall summon such persons, as near as he can reasonably do so, in the order in which they are set down in said book, and their names shall be called for empaneling in the order in which they appear in said book.

1860, ch. 308. 1882, ch. 67. 1884, ch. 450. P. L. L., (1888) Art. 4, sec. 594.

**610.** If at any trial of any cause in any of the several courts as aforesaid, *tales de circumstantibus*, shall be ordered, it shall be the duty of the Sheriff to summon such talesmen, those who are entered in said book and are not upon the regular panels as aforesaid; and such talesmen shall be summoned and called to be sworn or affirmed upon the *voir dire*, or otherwise, in the order in which their names are set down in said jury book, unless the 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, or unless the State's Attorney or his deputy, and counsel for the traverser, or the counsel for the parties litigant, with the consent of the court, shall waive said order for summoning and swearing or affirming such talesmen; but if said affidavit shall have been made by said Sheriff or his deputy, or if such persons shall fail to appear after having been summoned as aforesaid, or the said waiver shall be made with the consent of the court, then 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 either of said courts 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 said courts, except said Criminal Court of Baltimore, who may not then be engaged as a part of any special panel: and if it should happen at any time in summoning talesmen for any of the said courts, the Sheriff

shall exhaust the whole list of the names drawn from the said wheel, as provided in this sub-division of this Article, it shall be his duty immediately to make report thereof, verified by his affidavit or affirmation, to the Supreme Bench of Baltimore City, and thereupon the said Judges, or one of them, shall immediately cause the Sheriff, or his deputy to be designated by him, to appear before such Judge, in some one of the court-rooms in said city, and cause such additional number of names as shall be designated by the Judge of the Court for which such talesmen are needed, to be drawn from the names selected by said Judges as aforesaid, and still remaining upon said list of qualified jurors, and from such further names, if any, as the Judges of the Supreme Bench, or a majority of them, shall select and cause to be added to said list; and the said drawing shall be made, and the names drawn shall be recorded in the manner provided in sections 605 and 606; and the talesmen shall be summoned from such additional number of persons so drawn in the manner hereinbefore directed,

P. L. L., (1860) Art. 4, sec. 611. P. L. L., (1888) Art. 4, sec. 595.

**611.** Every petit juror sworn upon any special panel shall continue to serve thereon until discharged by the court, notwithstanding the expiration of his term of three weeks, aforesaid; but no one summoned as a juror shall be excused from service except in open court, on good cause shown to the satisfaction of the court; and if any juror summoned, and not excused, shall fail to attend the said court until duly discharged, he shall be fined, for the use of the said city, not less than twenty nor more than two hundred dollars, to be recovered by attachment, or such other appropriate process as the said court may direct.

Mills v. State, 76 Md. 280. See, City Code (1879), pages 566-569.

1882, ch. 67. 1884, ch. 450. P. L. L., (1888) Art. 4, sec. 596.

**612.** It shall be the duty of said Judges, or a majority of them, to assemble as hereinbefore in this sub-division of this Article provided, on the Thursday preceding the fourth Monday of each term, and thereafter so long as a jury may be required for any of said courts, from three weeks to three weeks during each term of each of the said courts which may require the attendance of a jury; at such meetings the said Judges, or a majority of them, shall cause the names of those who have served on any of the regular panels of the aforesaid courts since the making of the list of qualified jurors as aforesaid to be stricken from said list; and the persons whose names are so stricken from

said list shall not be liable to serve again as jurors for two years, accounting from the beginning of the term for which their names were so entered on the list of qualified jurors; the said Judges, or a majority of them, shall then add to said list of qualified jurors such qualified persons as shall suffice to make up the number of seven hundred and fifty qualified persons, or thereabouts. From the said whole number the jurors to serve for three weeks from the ensuing Monday shall then be drawn for the said courts, and their names be recorded in the said jury books in the manner hereinbefore provided by this subdivision of this Article, under the superintendence of one or more of said Judges. And if, at the time of any drawing, juries shall not be required for all of said courts, then it shall not be necessary to draw panels for the court not requiring them, but jurors shall be drawn for such courts only as may need them, in the manner hereinbefore provided in this Article relating to jurors, so far as concerns the courts requiring such juries; and besides summoning said panels for the said courts, the Sheriff shall also summon at the same time such number of reserves as he may be required by the Judges, or a majority of them, as provided by section 608; and said reserves shall also be liable to service as in said section mentioned.

1860, ch. 308. P. L. L., (1860) Art. 4, sec. 613. P. L. L., (1888) Art. 4, sec. 597.

**613.** If it should 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; 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 another, as talesman, 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.

1882, ch. 67. 1884, ch. 450. P. L. L., (1888) Art. 4, sec. 598.

**614.** Any person who shall fraudulently mark or designate or open or leave open, or cause or knowingly permit to be



marked or designated, or to be opened or left open any ballot for jurors which shall be prepared for the purpose of being drawn under this sub-division of this Article, or who, by any fraudulent contrivance, device, or collusion whatever, shall prepare or arrange, or cause, or knowingly permit to be prepared or arranged any ballot aforesaid, so that the same or any thereof may be known or recognized in the drawing thereof, or may be drawn in preference to others, or for the purpose of their being so known or recognized, or being so drawn or omitted to be so drawn; and any person who shall in any way fraudulently or collusively deal with the ballots aforesaid, or any of them, or with the drawing thereof, or with the preparation or folding of said ballots, or with the wheel aforesaid, so that the fair operation and lawful and impartial execution of the provisions of this sub-division of this Article in relation 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 to permit or allow the same to be interfered with or prevented, shall be guilty of a misdemeanor, and upon conviction thereof shall be sentenced to be confined, in the discretion of the Court, in the Penitentiary or Maryland House of Correction for a term of not less than one nor more than three years.

1860, ch. 308. P. L. L., (1860) Art. 4, sec. 615. P. L. L., (1888) Art. 4, sec. 599.

**615.** 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.

1860, ch. 308. P. L. L., (1860) Art. 4, sec. 616. P. L. L., (1888) Art. 4, sec. 600.

**616.** If any Sheriff of Baltimore City, or any deputy thereof, shall wilfully violate the provisions of this sub-division 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.

1860, ch. 308. P. L. L., (1860) Art. 4, sec. 617. P. L. L., (1888) Art. 4, sec. 601.

**617.** Any two of the Judges of the Supreme Bench of Baltimore City may constitute a quorum at any meeting held under the provisions of this sub-division of this Article, and may exercise all the powers reposed in the said Judges.

1860, ch. 308. P. L. L., (1860) Art. 4, sec. 618. P. L. L., (1888) Art. 4, sec. 602.

**618.** 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.

P. G. L., (1860) Art. 50, sec. 18. P. L. L., (1888) Art. 4, sec. 603.

**619.** 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.

1867, ch. 269. P. L. L., (1888) Art. 4, sec. 604.

**620.** All the provisions of this sub-division 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 provisions of law relating to the drawing of jurors in the City of Baltimore; *provided*, nevertheless, that if any officer concerned in the drawing of said jurors shall wilfully neglect to perform any duty imposed upon him by law, he shall be liable to indictment in the Criminal Court of Baltimore, and upon conviction shall be fined the sum of one thousand dollars.

#### *Pay of Jurors.*

1880, ch. 441. P. L. L., (1888) Art. 4, sec. 605.

**621.** Jurors in any of the courts of the City of Baltimore shall receive one dollar and a-half per day for each and every day they shall attend the several courts of this State in said city as jurors; and it shall be the duty of the clerk of the court to which the jurors shall be summoned, to furnish on the day their services shall terminate, to each juror, a certificate, showing the days he has been in attendance on the court, and the amount payable to him for such service; and the City Register shall pay the jurors the sums payable for such service in cash, and immediately upon the presentation and surrender of such certificate, with the receipt of the juror, and said payment shall not be demanded save upon the surrender of said certificates, and the said certificates shall not be the subject of assignment.

*Volunteer Militia Exempt from Petit Jury Duty.*

1870, ch. 182. P. L. L., (1888) Art. 4, sec. 606. 1906, ch. 61.

**622.** All certificates of membership of any legally organized volunteer company of the militia shall be signed by the commanding officer thereof, which certificates shall be issued on or before the first day of April in each year to such persons as may then compose the uniformed and active members of said company; every such company may receive and have as many honorary members as it has active and uniformed members, and no more, on payment, in advance, by each person desiring to become such honorary member, of not less than ten dollars per annum; which said money shall be received by the commanding officer of the company, and be by him applied to the payment of armory rent or the purchase of uniforms for the rank and file of the active members of his company, or to such purposes as may be authorized by the by-laws of said company; and the commanding officer of every company shall on or before the first day of June and December of every year render to the Adjutant General an account of the money so received and expended by him, and every such honorary member shall be entitled to receive a certificate of honorary membership of the company, to be signed as aforesaid, and bearing date at the time of its issue; which certificates of membership, whether of uniformed and active members or of honorary members, shall exempt the person therein named from petit jury duty for the period of one year from the date of his said certificate; *provided*, he files his said certificate with the clerk of the court before the drawing of the jury.

Albert, Sheriff, v. White, 33 Md. 297.

## JUSTICES OF THE PEACE AND CONSTABLES.

1886, ch. 66. 1888, ch. 98, sec. 16. 1886, ch. 314. P. L. L., (1888) Art. 4, sec. 607. 1890, ch. 125. 1896, ch. 117. 1904, ch. 16.  
1912, ch. 823.

**623.** The Governor, by and with the advice and consent of the Senate, shall appoint twelve Justices of the Peace for each of the legislative districts of Baltimore City, to be selected as follows: One from each of the wards comprising each of said districts, and six Justices of the Peace at large from each of said districts, and shall further appoint fifty-three Justices of the Peace, and no more, from Baltimore City at large, who shall be appointed from such ward or wards as the Governor may elect or determine.

Justices of the Peace and Constables do not hold over, except as *de facto* officers. Their term expires two years from their appointment.

Claude v. Wayson, 118 Md. 447.

1902, ch. 611. 1904, ch. 521. 1910, ch. 41.

**623A.** In addition to the Justices of the Peace mentioned in section 623 of this Article, there shall be appointed by the Governor, by and with the advice and consent of the Senate, and if the Senate shall not be in session, by the Governor, from the City of Baltimore, at large, an additional Justice of the Peace, to be known as the magistrate for juvenile causes, who shall be a member of the bar of the Supreme Bench of Baltimore City and shall receive from the Mayor and City Council of Baltimore a salary of three thousand dollars per annum, payable monthly, and the jurisdiction and powers of such justice shall be as follows: (1) He shall possess the general powers of police justice of the peace or justice of the peace selected to sit at a station-house in the City of Baltimore, as the same are now or may hereafter be defined by law. (2) He shall have exclusive jurisdiction where jurisdiction is given by law to any justice of the peace in Baltimore City, in all cases of trial or commitment for trial, or commitment to any juvenile institution of any minor under the age of sixteen years, and such magistrate shall sit at such times as may be necessary for the proper discharge of his duties at such proper place in the Courthouse in Baltimore City as may be provided by the Superintendent of Public Buildings. (3) He is empowered to appoint a suitable person to act as his clerk, who shall receive from the Mayor and City Council of Baltimore City a salary of one thousand dollars per annum, payable monthly, and shall attend at such times and places and perform such duties as may be directed by said justice, and shall be removable by him at his discretion. Whenever any minor is arrested, he may be taken to such place other than a station-house as may be designated by said justice and provided by the Superintendent of Public Buildings or the Mayor and City Council of Baltimore; but, in the absence of such designation, such minor may be held at a station-house as heretofore until brought before the justice; and when such justice shall commit any minor for trial or for hearing, he may commit such minor to a suitable juvenile institution or other suitable prison, instead of the Baltimore City Jail. The Board of Police Commissioners for the City of Baltimore shall designate two or more members of the police force to attend said justice and execute his powers and directions. The Governor shall also appoint, by and with the advice and consent of the Senate, and if the Senate shall not be in session, by the Governor, from the City of Baltimore at large, an additional Justice of the Peace who shall be a member of the bar of the Supreme Bench

of Baltimore City, or the Governor may select from among the present Justices of the Peace of Baltimore City, who shall likewise be a member of the bar of said Supreme Bench, who shall receive from the Mayor and City Council of Baltimore City a salary of one thousand dollars per annum, payable monthly, and whose jurisdiction and powers shall be the same as those conferred upon the Magistrate for Juvenile Causes and who shall be designated by the Governor to sit in said court in the absence by illness or otherwise and at other times upon the request of and in the place of the said Magistrate for Juvenile Causes.

1912, ch. 482.

**623AA.** The Magistrate for Juvenile Causes shall have, in addition to the powers and the authority vested in him by other sections of this article, the power and authority to enforce obedience to his orders and judgments by attachment and to inflict summary punishment for contempt of court by a fine not exceeding in any one case the sum of twenty dollars (\$20); and said Magistrate for Juvenile Causes may make such rules and orders from time to time for the well-governing and regulating his Court and the officers and suitors thereof and under such fines and forfeitures as he shall think fit, not exceeding twenty dollars (\$20) for any one offense; all of which fines shall go to the State; provided, however, that the power aforesaid to punish for contempt shall not be construed to extend to any cases arising in the Court of said Magistrate for Juvenile Causes except the cases specifically set forth and provided for in section 4 of Article 26, of the Code of Public General Laws of Maryland as within the power of the several courts of the State to inflict summary punishments for contempt of Court.

1876, ch. 28. P. L. L., (1888) Art. 4, sec. 608. 1912, ch. 823.

**624.** Each of said Justices of the Peace, before entering upon the duties of his office, shall give to the State of Maryland a good and sufficient bond, with a surety or sureties to be approved by the judge of the Superior Court of Baltimore City, in the penalty of five thousand dollars (\$5,000), with conditions that he will truly and faithfully discharge, execute and perform all and singular the duties and obligations of the office of Justice of the Peace, and that he will account for and pay over to the Clerk of the Court of Common Pleas and to the Register of the City of Baltimore, respectively, all fines, penalties and forfeitures and all fees or the portion thereof, which he is bound to account for and pay over to said respective officers; and that he will faith-

fully and truly account for and pay over to the person or corporation entitled to receive the same, all money belonging to such person or corporation which may come into his hands as Justice of the Peace.

As to liability of Justices of the Peace for official acts, *see*, *Roth v. Shupp*, 94 Md. 57.

P. L. L., (1860) Art. 4, sec. 621. P. L. L., (1888) Art. 4, sec. 609.  
1912, ch. 823.

**625.** It shall be the duty of the Governor, after the appointment of the Justices of the Peace provided for in section 623, to select from the Justices of the Peace so appointed one Justice of the Peace who shall be known as "Presiding Justice of the Peace of the People's Court," and four other Justices of the Peace who shall be known as "Associate Justices of the Peace of the People's Court." Said Presiding Justice of the Peace of the People's Court shall receive from the Mayor and City Council of Baltimore a salary of \$2,500 per annum, payable monthly, and each of said Associate Justices of the Peace of the People's Court shall receive from the Mayor and City Council of Baltimore a salary of \$2,100 per annum, payable monthly, and said Justices shall receive no other compensation or fees whatever for the performance of any duties as justices of the peace. And said Justices shall sit for trial of cases on each day (except Sundays and legal holidays) from the hour of 1 o'clock P. M., at such proper place in or near the Court House in Baltimore City as may be provided by the Mayor and City Council of Baltimore; and one or more of said Justices, to be assigned by said Presiding Justice, shall be on duty from 9:30 o'clock A. M. until 12:30 o'clock P. M., for the purpose of issuing summons and performing any other duties, except the trial of cases. Cases may, however, be tried at any hour upon the joint consent of all the parties and of the Justice.

For notes on decisions relating to Justices of the Peace and powers conferred by sections 626 and 627, *see*, notes, pages 219 to 222 inclusive, Baltimore City Code (1879).

This Act valid as to Justices. Provision as to Constables void.

*Levin v. Hewes*, 118 Md. 624.

But city may provide for the Constables by ordinance.

*Gould v. Baltimore*, 119 Md. 534.

1912, ch. 823.

**625A.** It shall be the duty of said Presiding Justice of the Peace to assign for trial to himself or to one of said Associate Justices of the Peace, all cases removed to him as said Presiding Justice of the Peace under the provisions of section 627 of this

Article, or returnable before any Justice of the Peace of the People's Court, and generally to supervise the work of the said Associate Justices of the Peace and of the constables hereinbefore provided for.

1912, ch. 823.

**625B.** Each of the Justices of the Peace provided for in section 623 hereof, other than those specially provided for in sections 623A, 625 and 630 to 638, inclusive, of this Article, shall receive from the Mayor and City Council of Baltimore a salary of \$10.00 per annum, as full compensation for the performance by them of all duties of a civil, judicial nature; but said Justices of the Peace shall have the right to charge and retain all fees arising from the taking of acknowledgments and affidavits.

**625C.** Void. Levin v. Hewes, 118 Md. 624

P. L. L., (1860) Art. 4, sec. 622. P. L. L., (1888) Art. 4, sec. 610.  
1894, ch. 132. 1914, ch. 332.

**626.** No Justice of the Peace, in any case of debt or damages whatever, shall issue a summons except on application for the same, in writing, by the plaintiff or his attorney, accompanied with the bond, bill of exchange, promissory note or other writing or account, or by a copy of such bond, bill of exchange, promissory note, or other writing or account, by which the defendant is so indebted; or if the action be brought upon a verbal or implied contract, or for damages arising in any manner whatsoever, a statement of the particulars of the plaintiff's claim thereunder shall accompany the said written application; and no Justice of the Peace shall issue an execution of any kind, except on application for the same, in writing, by the party entitled thereto or his attorney.

State v. Carrick, 70 Md. 589.

1868, ch. 375. P. L. L., (1888) Art. 4, sec. 611. 1894, ch. 132.  
1912, ch. 823. 1914, ch. 354.

**627.** Every writ, warrant, summons or other process issued by any Justice of the Peace shall be made returnable before the Presiding Justice of the Peace of the People's Court, which said Presiding Justice of the Peace of the People's Court shall have the right to try any such case or to assign the same for trial to any other Justice of the Peace of the People's Court.

P. L. L., (1860) Art. 4, sec. 624. P. L. L., (1888) Art. 4, sec. 612.  
1912, ch. 823.

**628.** The said Justices of the Peace, other than the five Justices of the People's Court, when called out of their offices

for the purpose of taking acknowledgments and affidavits, may receive such compensation for their services, in addition to the fees prescribed by law, as the party requiring their services may allow them.

**629.** Repealed by Act of 1912, Chapter 823.

1882, ch. 219. 1890, ch. 230. P. L. L., (1888) Art. 4, sec. 614. 1892, ch. 651. 1894, ch. 197. 1896, ch. 131. 1898, ch. 123, sec. 630.  
1898, ch. 429. 1912, ch. 777.

**630.** It shall be the duty of the Governor, after the appointment of the Justices of the Peace provided for in section 623 of this said Article 4, to select from the Justices of the Peace so appointed a Justice of the Peace to sit at each station-house in the City of Baltimore, and in addition, two justices, or such other number of justices as may be by law hereafter provided for, of peace, to act at such times and places as is hereinafter provided for. Each justice so selected shall keep his office at the station-house for which he was appointed, and shall attend at such station-house from 8 o'clock A. M. until 10 o'clock A. M. on every day of the year except Sundays and legal holidays, and from 3 o'clock P. M. until 5 P. M. on every day except Sundays and legal holidays; and upon every Sunday and legal holiday shall attend at the station-house for which he was appointed from 9 o'clock A. M. until 11 o'clock A. M. (and for the purpose of this section Saturday afternoons shall not be considered legal holidays unless the whole of said Saturday may be a legal holiday), and at each of said respective sittings shall sit to hear, try and determine cases, and to perform all the duties which he is required by law to perform. The said respective Justices of the Peace, so selected to sit at any station-house in the City of Baltimore, shall transact no other business at such station-house except the business required of them, by the several sections of this sub-title of this Article, to be by them, respectively, performed at such station-house. The attendance at any such station-house of an additional Justice of the Peace shall be regulated and controlled by the Board of Police Commissioners for the City of Baltimore; but the Board of Police Commissioners in regulating the attendance of an additional Justice of the Peace at a station-house shall not assign any Justice of the Peace to said station-house, under this section or section 637 of this said Article 4, other than a Justice of the Peace selected by the Governor to sit at a station-house in said city, as long as one of the said Justices of the Peace so assigned by the Governor shall be available for said purpose.



1892, ch. 651. P. L. L., (1888) Art. 4, sec. 614A.

**631.** When there is an arrest by an officer of the Police Department in the City of Baltimore of any person for violation of an ordinance of the Mayor and City Council of Baltimore or a statute of the General Assembly of the State of Maryland, punishable by fine and not by imprisonment, during the hours when the Police Magistrates are not at their respective station-houses, the police captain, lieutenant or other officer on duty and in charge of such station is hereby authorized and empowered to release for the next hearing before the Police Magistrate any person so arrested upon a deposit of an amount equal to the fine or costs or penalty imposed if found guilty, as surety for such appearance, and after the hearing the deposit is to be returned to the depositor if the complaint is dismissed, if otherwise it is to be appropriated as designated by law.

Brish v. Carter, 98 Md. 452.

1882, ch. 615. 1894, ch. 281. P. L. L., (1888) Art. 4, sec. 615. 1890, ch. 369. P. G. L., (1904) Art. 27, secs. 67A and 68. 1912, ch. 777.

**632.** Each of said Justices of the Peace shall have power to hear, try and determine the case of every person who may be arrested and brought before him in the said City of Baltimore, charged with the violation of section 275 of Article 27 of the Code of Public General Laws of 1888, title "Crimes and Punishments," and to hear, try and determine the cases of all persons arrested and brought before him, charged with any offense specified in sections 865 to 868, inclusive, of this said Article 4, or in sections 881 to 884, inclusive, of this said Article 4; and to hear, try and determine the cases of all persons brought before him charged with the violation of Chapter 351 of the Acts of 1898, or charged with any disturbance of the public peace; and to hear, try and determine the cases of all persons brought before him charged with assault or with assault and battery; provided that no justice of the peace shall impose any fine exceeding \$100 or any term of imprisonment exceeding one year, in any case of assault, or assault and battery, and to hear, try and determine all charges of carrying concealed weapons and all violations of section 4 of this act; and to hear, try and determine all prosecutions or criminal proceedings for an act done or omitted to be done in the City of Baltimore, the doing of which act, or the omission to do which act, is or may be punishable under any act of assembly of this State or under any ordinance of the Mayor or City Council of Baltimore, by pecuniary fine only, not exceeding one hundred dollars; to hear, try and determine the cases of all persons brought before him

charged with the violation of laws relating to hawkers and peddlers, and to hear, try and determine the cases of all persons brought before him charged with the offense of indecent exposure; to hear, try and determine the cases of all persons brought before him for Sunday gaming, Sunday work, Sunday sales or Sabbath-breaking; and to hear, try and determine the cases of all persons brought before him charged with being a vagrant or with being an habitually disorderly person (not insane). But it shall be the duty of the said justice before proceeding to hear, try and determine any of the charges aforesaid, to inform the party or parties charged therewith of his or their respective rights to a jury trial; and if a jury trial be prayed by the party or parties charged, or if the State's Attorney for said city shall before trial for the alleged offense pray a jury trial on the part of the State, the justice shall forthwith commit or hold the said party or parties to bail for trial in the Criminal Court of Baltimore, and endorse on the commitment or recognizance the fact of a jury trial having been prayed. It is hereby expressly provided that the said justice shall not have power to try and determine any violation of the Public General Laws of this State relating to licenses (except violations of laws relating to hawkers and peddlers heretofore mentioned), and shall not have power to try and determine any violation of section 682 of this said Article 4, but shall cause all such offenders against the Public General or Local Laws to be committed or held to bail for trial in the Criminal Court of Baltimore.

Lancaster v. State, 90 Md. 211.

*Trials before Justices of the Peace.*

As to waiver of a jury trial before a Justice of the Peace and construction of Acts 1890, ch. 369 and 1894, ch. 281, *see*, State *ex rel.* Lancaster v. Hall, Daily Record, June 28, 1899.

As to discretion of a Justice of the Peace concerning punishment in cases of assault, *see*, State v. Hebron, Daily Record, September 3, 1903.

A commitment by a Justice of the Peace imposing an excessive penalty where accused was committed to House of Correction was held void only as to excessive part of penalty, Adams v. Superintendent of House of Correction, Daily Record, April 3, 1903.

The Act 1898, ch. 167, was held to be constitutional *in re*, Loane v. Affelder, Daily Record, July 2, 1898.

As to appeals from magistrates' judgments and trial of same, *see*, Messick v. State, 82 Md. 583. Judefind v. State, 78 Md. 510. As to right of jury trial in appeals from magistrates' decisions, *see*, Danner v. State, 89 Md. 220. As to jurisdiction of magistrates, *see*, Roth v. State, 89 Md. 524.

What constitutes a waiver of Jury trial.

Baum v. Warden of City Jail, 110 Md. 579.

1912, ch. 777.

632A. In all cases in which any person is tried and committed before any Justice of the Peace assigned to any of the police stations in the City of Baltimore, and sentenced by him to any imprisonment (other than imprisonment in default of payment of fines) or to any fine of over \$50 (exclusive of costs), he may within ten days after sentence, exclusive of the day of sentence, pray an appeal to the Criminal Court of Baltimore upon waiving his right to plead on the trial of said appeal in said Criminal Court, his former jeopardy resulting from his said trial and conviction before said justice, no formal waiver of said right to plead said former jeopardy shall be necessary; and a prayer for an appeal under this section to said Criminal Court shall be construed as a waiver of said right to plead said former jeopardy, and in the event of such appeal being so prayed, the said justice shall forthwith endorse on the commitment the fact of an appeal being prayed, together with a list of the names and addresses of the witnesses for the State, and forthwith transmit the papers, together with a copy of the commitment, with the names and addresses of the witnesses for the prosecution endorsed thereon, to the office of the Clerk of the Criminal Court of Baltimore, and the said person shall thereafter be tried de novo in the Criminal Court of Baltimore, in the same manner as if the said case had been originally brought before the said court without the necessity of presentment or indictment by the grand jury; and the said court, upon said trial de novo, may impose any sentence authorized by law to be imposed as punishment for the offense charged irrespective of the sentence imposed by the Justice of the Peace below, provided, however, that the trial in the Criminal Court of Baltimore shall be by jury, if demanded by the party charged; provided further that upon the trial in the Criminal Court of Baltimore of such appeals under this section, the same fees and costs shall be taxed in said cases on appeal as would obtain in like cases where trial is had upon presentment and indictment by the grand jury; provided, further, that no appeal shall be prosecuted under this section after payment of the fine or after expiration of the sentence imposed by the justice. And, in case of appeal prosecuted under this section, the convicted party shall be entitled to be admitted to bail for his appearance in the Criminal Court of Baltimore, pending the hearing of such appeal, upon furnishing surety to be fixed by the said justice for his appearance in the Criminal Court of Baltimore, or upon furnishing such surety for his said appearance as the Criminal Court of Baltimore may require.

1912, ch. 777.

**632B.** In all cases in which the convicted person shall have the right of appeal to the Criminal Court of Baltimore, under said section 632A, said convicted person personally or by his agent or attorney may, if committed to jail, notify in writing warden of the Baltimore City Jail, or if committed to the House of Correction, the superintendent of the Maryland House of Correction, of his desire to pray an appeal to the Criminal Court of Baltimore from the judgment of said Justice of the Peace (and no formal prayer for appeal shall be required beyond a statement in writing indicating an intention on the part of the said convicted person to appeal from sentence imposed upon him); and upon receipt of said notice or prayer for appeal by the said warden of the Baltimore City Jail or said superintendent of the Maryland House of Correction, the person so receiving the same shall endorse thereon the time of such receipt by him, forthwith transmit by mail or otherwise said order of appeal, together with a copy of the commitment in said case, to the said Justice who has sentenced the said person; and said Justice, upon receipt of said order or prayer for appeal, shall endorse thereon the date of its receipt by him and transmit to the Criminal Court of Baltimore a copy of the commitment of the said Justice in said case, with a list of the names and addresses of the witnesses for the prosecution endorsed thereon, together with said order or prayer for appeal.

1912, ch. 777.

**632C.** In all cases in which the convicted person is entitled to an appeal under said section 632A, and fails to prosecute his appeal within the time provided in said section, it shall thereafter conclusively presumed that the said Justice informed the said party charged of his right to a jury trial in said case, and that the said party waived the same.

1912, ch. 777.

**632D.** In all cases in which any said Justice of the Peace assigned to any station-house in Baltimore City may impose as a penalty for the crime any sentence of imprisonment, the said Justice may in his discretion, impose imprisonment either in the Baltimore City Jail or in the Maryland House of Correction; but in all cases in which the said imprisonment is imposed only in default of the payment of fine or costs, the said imprisonment shall be only in the Baltimore City Jail.

1912, ch. 777.

**632E.** Whenever application is made upon oath before any Justice of the Peace, assigned to any of the station-houses in the City of Baltimore for the issuance of a warrant for the arrest of any person or persons charged with the violation of any ordinance of the Mayor and City Council of Baltimore, the violation of which ordinance is punishable by a pecuniary fine only of not more than \$100, the said Justice of the Peace may, in his discretion, instead of then issuing said warrant, issue a summons to the person for whom the said warrant is asked, to show cause before him on the day when said summons is made returnable why the said warrant should not be issued.

1912, ch. 777.

**632F.** In all cases where application is made to any Justice of the Peace assigned to any station-house in the City of Baltimore, for a warrant for the arrest of any person charged with the commission of a bailable offense, it shall be the duty of the said Justice of the Peace before issuing said warrant to determine the amount of bail to be required in the case of the person so charged; and the said Justice of the Peace before issuing said warrant shall also endorse upon said warrant the amount of bail so determined as aforesaid. When any person shall be arrested and brought to any station-house in the City of Baltimore, under a warrant so endorsed as aforesaid, during the absence of the Justice of the Peace assigned thereto, the police captain, lieutenant or other police officers, in charge of said station-house, shall release for the next hearing before said Justice of the Peace, such person so arrested as aforesaid, upon his furnishing security for his appearance at said hearing in double the amount endorsed upon said warrant. The Justice of the Peace aforesaid may at any time change the amount of required bail, so determined and endorsed as aforesaid and shall in such case endorse such change upon said warrant if then accessible to said Justice, and if not, then endorse the same upon said warrant upon the return of said warrant, but in no case where the offense charged is punishable by fine alone and not by imprisonment shall the Justice at any time determine and endorse upon the warrant an amount of required bail greater than the maximum fine imposed by law for the commission of the offense charged. Nothing in this section shall be construed as inconsistent with section 631 of Article 4 of the Public Local Laws of Maryland, entitled "City of Baltimore," sub-title "Justices of the Peace and Constables," as repealed and re-enacted with amendments by Chapter 123 of the Acts of 1898.

1912, ch. 777.

**632G.** Any police justice of the City of Baltimore shall have the right to issue a summons for the attendance of any witness in any case under consideration by said justice, pursuant to the provisions of section 632, and upon the failure of any person to attend said station-house in response to said summons at the time and place mentioned in said summons, he shall be liable, in the discretion of the said police justice, to a fine not exceeding \$5.00 for his non-attendance in response to the said summons, which fine shall be collected as other fines are collected, provided, however, the proof shows that a written or printed notice of said summons was duly delivered to the said witness in person by some one duly authorized under the law to summon witness in such case.

1912, ch. 777.

**632H.** The said several Justices of the Peace, assigned to the station-houses in Baltimore City, shall have the right to preserve order and decorum when sitting at the said station-houses in the discharge of their duties as such police justices, and shall have the right to punish any breach of order or decorum committed in their presence, by a fine not exceeding \$10.00, to be collected as other fines are collected. Provided, that in all cases where fine is imposed under this section the party on whom the said fine is imposed, if he feels aggrieved thereby, may within three days (exclusive of the date of the imposition of said fine) appeal to the Criminal Court of Baltimore from the action of the said police justice in such case; and pending the hearing of said appeal, shall give surety for his appearance in the Criminal Court of Baltimore in a sum to be fixed by the said justice, which sum shall not be in excess of twice the amount of said fine imposed; and the person, on whom such fine is imposed under this section, shall at his option, instead of furnishing surety for his appearance, have the right, pending his appeal, to deposit with the justice a sum in cash double the amount of the fine imposed, as collateral security for his appearance in the Criminal Court of Baltimore on said appeal. Provided, no appeal shall be allowed under this section after payment of the fine, but deposit of cash, as such collateral security in double the amount of the fine shall not be construed to be a payment of the said fine.

1882, ch. 219. P. L. L., (1888) Art. 4, sec. 616.

**633.** In all criminal prosecutions or proceedings which, under the provisions of the preceding section, may be heard,

tried and determined before a Justice of the Peace sitting at a station-house in the City of Baltimore, it shall be the duty of such Justice of the Peace before whom such case is tried, in the event of the conviction of the accused at the said trial, to impose upon the said accused so convicted, the fine, or the fine and punishment prescribed in case of such conviction by the Act of Assembly of this State, or by the ordinance of the Mayor and City Council of Baltimore, for the violation of which the accused was so tried. Any person sentenced to the payment of any fine, and to the payment of the costs of his prosecution, who shall not forthwith pay the said fine and the costs of said prosecution, shall be committed by such Justice of the Peace to the jail of Baltimore City until such fine and costs are paid, or until the said person shall be discharged from such jail by the due course of law.

1882, ch. 219. P. L. L., (1888) Art. 4, sec. 617.

**634.** When a person charged with any offence referred to in this sub-division of this Article, or the State's Attorney, shall pray a jury trial, the Justice of the Peace shall, in addition to his duties prescribed in section 632, endorse upon said commitment or recognizance the names and residences of the witnesses for the prosecution; and such commitment or recognizance so endorsed shall be returned forthwith to the Clerk of the said Criminal Court of Baltimore.

1876, ch. 28. P. L. L., (1888) Art. 4, sec. 618.

**635.** The Justice of the Peace, so selected to sit at any station-house, may be changed from time to time by the Governor, at his discretion, and any other Justice of the Peace may be selected by the Governor to perform the said duties at said station-house.

1876, ch. 28. P. L. L., (1888) Art. 4, sec. 619.

**636.** Each Justice of the Peace selected to sit at a station-house in the City of Baltimore shall receive the sum of one hundred and seventy-five dollars per month, or a proportionable part thereof, so long as he shall continue to act at a station-house in said city, under the selection of the Governor; which sum of money shall be paid to him by the City Register at the end of each month of his said service, or a proportionable part thereof, at the end of any portion of a month at which the service of such Justice of the Peace at said station-house may terminate, upon the certificate of the Board of Police Commissioners of Baltimore City, that such service has been rendered

under the appointment of the Governor as aforesaid; and no Justice of the Peace selected for a station-house shall be permitted to charge any fee, or receive any gratuity for granting any release, or for the performance of any duty required by law.

1880, ch. 461. P. L. L., (1888) Art. 4, sec. 620.

**637.** If any Justice of the Peace who has been selected as aforesaid to sit at any station-house in the City of Baltimore is unable, by reason of sickness or other unavoidable cause, to attend to his duty at said station-house, or fails to attend at said station-house, at any time, when his presence is there required, it shall be the duty of the Board of Police Commissioners of Baltimore City to require another Justice of the Peace to perform the duties at said station-house, of the said Justice of the Peace so sick or absent; and it shall be the duty of the Justice of the Peace so required to perform said duties at said station-house, to perform the same so long as may be necessary, or until the Governor shall select another Justice to perform said duties; the Justice of the Peace so required to perform said duties at said station-house, by the said Board of Police Commissioners, in place of the Justice selected by the Governor, shall receive six dollars per day for every day he shall actually serve at such station-house; which pay shall be deducted from the pay provided to be paid to the Justice selected to sit at such station-house and failing to attend; *provided*, that said pay of the said Justice who may sit in the absence of the Justice so selected to sit at any station-house, shall not be deducted from the pay of the said last-named Justice, if the said Board of Police Commissioners shall certify that such absence was by reason of his necessary attendance upon any court or Justice of the Peace of said State, under its process, nor when such absence shall not exceed fifteen days in the course of any one year, and when the said Board of Police Commissioners shall certify that such last-named absence, not exceeding fifteen days, as aforesaid, was occasioned by sickness or other unavoidable cause.

1888, ch. 336. P. L. L., (1888) Art. 4, sec. 621.

**638.** The said station-house Justices are granted a leave of absence, with pay, for fifteen days during each and every year; and the Board of Police Commissioners are authorized to designate one of the civil magistrates to act in their place during said absence, who shall be paid the same as the station-house Justices receive.



1876, ch. 28. P. L. L., (1888) Art. 4, sec. 622.

**639.** No Justice of the Peace appointed under the provisions of section 623 shall be paid by the City of Baltimore any fee for issuing any State writ, or for any search warrant, or for taking the recognizance of any witness, or for taking any recognizance in any case reported to court, or for any commitment or release, or for issuing any *subpoena* in any criminal case, or in any case instituted to recover any fine, penalty or forfeiture claimed by the State of Maryland, or by the Mayor and City Council of Baltimore; and no police officer or constable shall be paid by the Mayor and City Council of Baltimore any fee for the service of any *subpoena* or process in any criminal case, before any Justice of the Peace, or for service of any *subpoena* or process in any case pending before any Justice of the Peace, for the recovery of any fine, forfeiture or penalty by the State of Maryland or by the Mayor and City Council of Baltimore.

1876, ch. 28. P. L. L., (1888) Art. 4, sec. 623.

**640.** It shall be the duty of the officers of police, policemen and detectives appointed by the Board of Police Commissioners of Baltimore City, to serve and execute any and all writs, warrants, *subpoenas* and commitments, which may be issued by any Justice of the Peace selected to sit at the station houses in the City of Baltimore as hereinbefore provided.

1876, ch. 28. P. L. L., (1888) Art. 4, sec. 624.

**641.** Whenever any Justice of the Peace appointed under the provisions of this sub-division of this Article other than one of the Justices selected as aforesaid to sit at a station-house as aforesaid, shall issue a State writ for the arrest of any person, or shall issue any writ or summons against any person or corporation to recover any fine, penalty, or forfeiture, under any law of this State, or under any ordinance of the Mayor and City Council of Baltimore, such writ or summons shall be made returnable before one of the Justices of the Peace selected by the Governor to sit at a station-house in the City of Baltimore, and shall not be made returnable before the Justice of the Peace issuing the same, unless he be one of the Justices of the Peace selected to sit at a station-house as aforesaid.

1876, ch. 28. P. L. L., (1888) Art. 4, sec. 625.

**642.** Whenever any person shall be arrested upon any criminal charge, or for the violation of any law of this State, or of any ordinance of the Mayor and City Council of Baltimore, it

shall be the duty of the police officer or constable making such arrest, or in whose custody the said person so arrested may be, to take the person so arrested before the Justice of the Peace sitting at a station house who may have issued the writ or warrant for such arrest, or before whom such writ or warrant of arrest is made returnable; but if such arrest is made without writ or warrant, or if such writ or warrant is made returnable before another Justice than a Justice of the Peace sitting at a station house, it shall be the duty of the said police officer or constable to take the person so arrested to the nearest station house; and the Justice of the Peace sitting at said station house shall take jurisdiction in said case.

Police Justice has no jurisdiction to try violations of the motor vehicle Act.

Ruggles v. State, 120 Md. 556.

1876, ch. 28. P. L. L., (1888) Art. 4, sec. 626.

**643.** Every Justice of the Peace appointed under the provisions of this sub-division of this Article, shall file with the Clerk of the Court of Common Pleas, on the first day of April, July, October and January, in each and every year, an account verified by his oath or affirmation, of all fines, forfeitures and penalties imposed by him under the laws of this State, during the three preceding months; which said account shall show the names of the respective defendants, the Acts of Assembly under which said fines, forfeitures and penalties were respectively imposed, and the amounts paid in each case by the said respective defendants; and the said Justice of the Peace, at the time of filing said account shall pay over to the said clerk the amount of said fines, penalties and forfeitures so received, or the portion thereof to which the State of Maryland is entitled, to be accounted for by said clerk as other moneys of the State are accounted for by him.

1876, ch. 28. P. L. L., (1888) Art. 4, sec. 627.

**644.** Every Justice of the Peace appointed under the provisions of this sub-division of this Article shall file with the City Register, on the first day of April, July, October and January in each and every year, an account verified by his oath or affirmation, of all fines, forfeitures and penalties imposed by him under the ordinances of the Mayor and City Council of Baltimore during the three preceding months; which said accounts shall show the names of the respective defendants, the ordinances under which said fines, penalties or forfeitures were, respectively, imposed, and the amounts paid in each case by

said respective defendants; and the said Justice of the Peace at the time of filing said account shall pay over to the said Register the amount of said fines, penalties and forfeitures so received, or the portion thereof to which the Mayor and City Council of Baltimore is entitled, to be accounted for by said Register as other moneys of the said city are accounted for by him.

1876, ch. 28. P. L. L., (1888) Art. 4, sec. 628.

**645.** If any Justice of the Peace shall not have imposed or received any such fines, forfeitures or penalties, or any portion thereof, as are mentioned and described in the said two preceding sections, in the said three months preceding the time hereinbefore prescribed for filing said accounts, he shall file an affidavit or affirmation to that effect at the time prescribed for filing said accounts.

1876, ch. 28. P. L. L., (1888) Art. 4, sec. 629.

**646.** All costs paid to any Justice of the Peace sitting at any station house shall be accounted for and paid by said Justice to the Board of Police Commissioners of Baltimore City, to be by them applied as directed by section 750 of this sub-division of this Article.

P. G. L., (1860) Art. 18, sec. 25. P. L. L., (1888) Art. 4, sec. 630.

**647.** 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, or any decree of the Circuit Court or Circuit Court Number Two of Baltimore City, but such *supersedeas* shall be taken by the clerks of said courts respectively.

1864, ch. 179. 1870, ch. 39. P. L. L., (1888) Art. 4, sec. 31. 1912, ch. 823. 1914, ch. 242.

**648.** If any Justice of the Peace in Baltimore City dies, resigns or is removed, or upon the expiration of his official term, his docket and papers shall be delivered to the Clerk of the City Court within thirty days thereafter; provided, however, that this section shall not apply to any of the five Justices of the Peace assigned to the Peoples' Court, whose dockets and papers shall be retained in the custody of the Chief Constable. Any Justice of the Peace of the Peoples' Court may issue process upon any docket of any Justice of the Peace in the custody of the said Chief Constable that he might issue if the docket had been kept by himself, and shall have full power and

authority to complete any process that has been begun any time by any other Justice of the Peace of the Peoples' Court, and this power shall include the power of certifying to the records of any Justice of the Peace of the Peoples' Court by any of the other Justices of the Peace of said Court.

1876, ch. 28. P. L. L., (1888) Art. 4, sec. 633.

**649.** If any Justice of the Peace or constable appointed under the provisions of this sub-division of this Article be convicted in a court of law, of any misdemeanor in office, his removal from said office shall be part of the sentence or judgment pronounced upon him by the said Court. No constable shall depute any person to act in the service of any writ whatever for or in his behalf.

### LANDLORD AND TENANT.

1888, ch. 487. 1890, ch. 327. P. L. L., (1888) Art. 4, sec. 634.

**650.** In all cases of any demise or agreement for rental, express or implied, verbal or written, hereafter to be made of lands or tenements, whether real estate or chattels real, within the limits of the City of Baltimore, for less term than three calendar months, the remedy of distress for rent due be and the same is hereby taken away and altogether superseded.

1888, ch. 487. 1890, ch. 327. P. L. L., (1888) Art. 4, sec. 635.

**651.** Whenever the tenant under any such demise or agreement of rental, express or implied, verbal or written, of lands or tenements, whether real estate or chattels real within the limits of the City of Baltimore, shall fail to pay the rent thereunder when due and payable, it shall be lawful for the lessor to have again and re-possess the premises so rented.

1888, ch. 487. 1890, ch. 327. P. L. L., (1888) Art. 4, sec. 636.

**652.** Whenever any lessor shall desire to have again and re-possess any premises to which he is entitled under the provisions of the preceding section, he, or his duly qualified agent or attorney, shall make his written complaint under oath or affirmation, before any Justice of the Peace of the City of Baltimore, and describing therein in general terms the property sought to be had again and re-possessed as aforesaid, and also setting forth the name of the tenant to whom the same is rented, or his assignee or under tenant or tenants, with the amount of rent thereon due and unpaid; and praying by warrant to have again and re-possess the premises, together with judgment for the

amount of rent due and costs; and it shall thereupon be the duty of said Justice of the Peace forthwith to issue his summons, directed to any constable of the City of Baltimore, and ordering him to notify said tenant, assignee or under tenant forthwith to appear before the said Justice of the Peace, at the trial to be held on the second day after the filing of said complaint, to show cause why the prayer of said lessor should not be granted as aforesaid, and the said constable shall forthwith proceed to serve said summons upon said tenant, assignee or under tenant in said premises, or upon his or their known or authorized agent, but if for any reason, neither said tenant, assignee or under tenant, nor his or their agent can be found, then said constable shall affix an attested copy of said summons conspicuously upon said premises, and such affixing of said summons shall, for the purposes of this sub-division of this Article, be deemed and construed a sufficient service upon all persons whomsoever.

1888, ch. 487. 1890, ch. 327. P. L. L., (1888) Art. 4, sec. 637.

**653.** If at the trial on the second day aforesaid, the Justice of the Peace shall be satisfied the interest of justice will be better served by an adjournment to enable either party to procure his necessary witnesses, he may adjourn the trial for a period not exceeding one day, except by consent of all parties, and if at said trial or due adjournment thereof as aforesaid, it shall appear to the satisfaction of the Justice of the Peace before whom said complaint has been made and tried as aforesaid, that the rent or any part of the rent for said premises is actually due and unpaid, then the said Justice of the Peace shall give judgment in favor of said lessor for the amount of rent found due, with costs of suit, and shall order that said tenant and all persons claiming or holding by or under said tenant shall yield and render up possession of said premises unto said lessor, or unto his duly qualified agent or attorney within two days thereafter; *provided*, however that if the said tenant, or some one for him, shall at said trial or due adjournment thereof as aforesaid, tender the rent found to be due and unpaid, together with the costs of said suit, the said complaint shall be entered satisfied and no further proceedings shall be had thereunder.

1888, ch. 487. 1890, ch. 327. P. L. L., (1888) Art. 4, sec. 638.

**654.** In case judgment shall be given in favor of said lessor in the manner aforesaid, and the tenant shall fail to comply with the requirements of the said order within two days aforesaid, the said Justice of the Peace shall, on or at any time after the expiration of said two days, issue his warrant, directed to

any constable of the City of Baltimore, that the lessor may elect, ordering him to cause said lessor to have again and repossess said premises by putting him (or his duly qualified agent or attorney for his benefit) in possession thereof, and for that purpose to remove from said premises, by force if necessary, all the furniture, implements, tools, goods, effects or other chattels of every description whatsoever belonging to said tenant, or to any person claiming or holding by or under said tenant.

1888, ch. 487. 1890, ch. 327. P. L. L., (1888) Art. 4, sec. 639.

**655.** The tenant may appeal from the judgment of the Justice of the Peace to the Baltimore City Court, at any time within two days from the rendition of such judgment; the tenant in order to stay any execution of the judgment, shall give a bond to the landlord with one or more securities, who are owners of sufficient leasehold or real estate in Baltimore City, with condition to prosecute the appeal with effect, and answer to the landlord, his executors, administrators, in all costs and damages mentioned in the judgment, and such other damages as shall be incurred and sustained by reason of said appeal; the aforesaid bond shall not affect in any manner the right of the lessor to proceed against said tenant, assignee or under tenant for any and all rents that may become due and payable to the lessor after the rendition of said judgment.

*Appeals from Judgments of Justices of the Peace.* From a judgment rendered under the Act 1888, ch. 487, an appeal will lie to the Baltimore City Court.

Stewart v. Duvall, Daily Record, March 7, 1889.

In connection with section 655, *see*, Knell v. Briscoe, 49 Md. 420.

1888, ch. 487. 1890, ch. 327. P. L. L., (1888) Art. 4, sec. 640.

**656.** The fee and charges of the Justice of the Peace and constables under this Article shall be the following and no other: "First costs," to the Justice of the Peace for preparing the written complaint and taking the affidavit of the plaintiff thereto, twenty-five cents, and for issuing the summons to the tenant and preparing attested copy, twenty-five cents; "second costs," for every judgment rendered where there is no trial, twenty-five cents; for every judgment rendered on trial, fifty cents, and ten cents additional for every witness sworn or examined; "third costs," for preparing and taking the bond of tenant in case of appeal, twenty-five cents; for the warrant for re-entry (in case it be issued), twenty-five cents; "first costs," to the constable for serving the summons, forty cents; "second

costs," for executing the warrant for re-entry, one dollar; and any Justice of the Peace or constable who shall charge or receive more than the actual fees prescribed for each specific act performed as the case proceeds, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be subject to and pay a fine or penalty of not less than one hundred dollars or more than three hundred dollars for each offence, one-half thereof for the use of the State, and the other half thereof to the person that shall first prefer the charge against such offender.

1914, ch. 331.

**656½.** In all cases of any demise or agreement for rental, express or implied, verbal or written, whether real estate or chattels real, within the City of Baltimore, except as provided in section 650 of this sub-title, distraint for rent shall be made only by the Sheriff or a constable of Baltimore City, and all warrants for such distraint shall be directed only to the Sheriff or a constable of Baltimore City.

#### LARCENY.

1900, ch. 739.

**656a.** No person in the City of Baltimore shall purchase from a child or minor under the age of sixteen years any hardware, plumbing, gas or electric fixtures, tools, household utensils, books, ornaments, jewelry, poultry, or animals of any kind, unless the said child or minor under the age of sixteen years is accompanied by his or her parent or guardian, or by some adult person known to the purchaser, who shall certify that the said child or minor under the age of sixteen years has come by the goods honestly, and has a right to sell the same.

1900, ch. 739.

**656b.** Any person offending against the preceding sections, and any person falsely certifying that he knows the child or minor under the age of sixteen years has obtained the goods honestly, and has a right to sell the same, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than two hundred dollars, or committed to jail for not more than six months, or fined and imprisoned as aforesaid.

1900, ch. 739.

**656c.** Nothing in this Act shall in any way affect section 371, Article 27, of the Maryland Code of Public General Laws, entitled "Receiving Stolen Goods, Money or Securities."

## LEGISLATIVE DISTRICTS.

## WARDS.

1898, ch. 10.

**656d.** It shall be the duty of the Board of Supervisors of Elections of Baltimore City to proceed forthwith to divide and lay off the City of Baltimore into twenty-four wards, to be each as regular and compact in form as may be practicable, and having according to the police census taken in December, 1897, as nearly as may reasonably be practicable, equal population, and in such manner that no ward shall exceed or fall short by more than fifteen per cent. of the number of inhabitants it would contain if it was so laid off as to include within its boundaries precisely one-twenty-fourth of the aggregate population of the city, and the said Board of Supervisors shall number the said wards from one to twenty-four consecutively.

1898, ch. 10. .

**656e.** When the said twenty-four wards are so laid out by the said Board of Supervisors of Elections of the City of Baltimore, as hereinbefore directed, it shall be the duty of the said board to make or cause to be made in a proper book, a careful description of the boundaries of each of the said wards, so numbered as aforesaid, under its proper number, and after making a careful and exact copy of the same in another proper book, and after verifying the said original book and the said copy by their signatures, to deposit the original book in the clerk's office of the Superior Court of Baltimore City, and it shall be the duty of the said clerk of the said court, to record the same among the Land Records of his office, and a copy of the description or descriptions contained in the said record of the boundaries of any one or more wards therein mentioned and described, shall be evidence of the boundaries of such ward or wards so laid out as aforesaid, and the copy of said original book so made and so verified, as aforesaid, by the said Board of Supervisors of Elections of Baltimore City shall always be retained in the office of the said board among the records of the said board.

1898, ch. 10.

**656f.** When said book containing the said descriptions of the said wards of the City of Baltimore so laid out as aforesaid, has been deposited for record in the clerk's office of the Superior Court of Baltimore City, then the said wards, as in said book described, and laid, shall thereafter be deemed to be the several wards of Baltimore City.



1898, ch. 10.

**656g.** It shall be the duty of the said Board of Supervisors of Elections to complete the said work of dividing the said City of Baltimore into wards, as provided by this Act, and of preparing the books showing such division as aforesaid and of depositing for record the book showing such division as hereinbefore directed within thirty days after the passage of this Act.

1898, ch. 10.

**656h.** The said Board of Supervisors of Elections shall, after the said wards shall be laid off as aforesaid, proceed to divide each of said wards into a suitable number of election precincts, in the manner prescribed in section 124 of Article 33 of the Code of Public General Laws, as the same was amended and re-enacted by the Act of 1896, chapter 202, and by the Act of 1904, ch. 254, provided, however, that the said Board of Supervisors of Elections shall not be required to have published more than one insertion of the advertisement of such precinct, or of the boundaries of such precinct, required by said section 124 of said Article 33 to be made.

1898, ch. 10.

**656i.** The said Board of Supervisors of Elections in the City of Baltimore shall cause maps to be made of the said new wards and precincts in the manner required by section 126 of Article 33 of the Code of Public General Laws, as amended and re-enacted by the Act of 1896, chapter 202.

1898, ch. 123, sec. 657. 1901, ch. 8.

**657.** The twenty-four wards, into which the City of Baltimore is now divided, shall be numbered as follows: The present first ward shall in future be known and numbered twenty-second ward; the present second ward shall in future be known and numbered fourth ward; the present third ward shall in future be known and numbered fifth ward; the present fourth ward shall in future be known and numbered third ward; the present fifth ward shall in future be known and numbered second ward; the present sixth ward shall in future be known and numbered first ward; the present seventh ward shall in future be known and numbered sixth ward; the present eighth ward shall in future be known and numbered seventh ward; the present ninth ward shall in future be known and numbered eighth ward; the present tenth ward shall in future be known and numbered tenth ward; the present eleventh ward shall in future be known

and numbered ninth ward; the present twelfth ward shall in future be known and numbered twelfth ward; the present thirteenth ward shall in future be known and numbered eleventh ward; the present fourteenth ward shall in future be known and numbered seventeenth ward; the present fifteenth ward shall in future be known and numbered fourteenth ward; the present sixteenth ward shall in future be known and numbered thirteenth ward; the present seventeenth ward shall in future be known and numbered fifteenth ward; the present eighteenth ward shall in future be known and numbered sixteenth ward; the present nineteenth ward shall in future be known and numbered twentieth ward; the present twentieth ward shall in future be known and numbered nineteenth ward; the present twenty-first ward shall in future be known and numbered eighteenth ward; the present twenty-second ward shall in future be known and numbered twenty-first ward; the present twenty-third ward shall in future be known and numbered twenty-third ward; and the present twenty-fourth ward shall in future be known and numbered twenty-fourth.

#### BOUNDARIES OF LEGISLATIVE DISTRICTS.

1894, ch. 435. 1901, ch. 8. 1902, ch. 602.

**657A.** The first legislative district of Baltimore City shall be and consist of the wards as newly numbered by the Act of 1901, chapter 8, from one to six, both inclusive, as said wards were laid out under the provisions of the Act of 1898, chapter 10, approved February 19, 1898; and the second legislative district of Baltimore City shall be and consist of the following wards, as newly numbered by the Act of 1901, chapter 8, namely: seventh, eighth, ninth, twelfth, thirteenth and fifteenth, as said wards were laid out under the provisions of the Act of 1898, aforesaid; and the third legislative district of Baltimore City shall be and consist of the following wards as newly numbered by the Act of 1901, chapter 8, namely: tenth, eleventh, fourteenth, sixteenth, nineteenth and twentieth, as said wards were laid out under the provisions of the Act of 1898 aforesaid, and the fourth legislative district of Baltimore City shall be and consist of the following wards as newly numbered by the Act of 1901, chapter 8, namely: seventeenth, eighteenth, twenty-first, twenty-second, twenty-third and twenty-fourth, as said wards were laid out under the provisions of the Act of 1898 aforesaid.

## COUNCILMANIC DISTRICTS.

1901, ch. 8.

**657B.** The First Councilmanic District shall be and consist of the wards as newly numbered by this Act from one to six, both inclusive, as said wards were laid out under the provisions of the Act of 1898 aforesaid; that the second Councilmanic District shall be and consist of the following wards, as newly numbered by this Act, namely: Seventh, eighth, ninth, twelfth, thirteenth and fifteenth, as said wards were laid out under the provisions of the Act of 1898, aforesaid; that the third Councilmanic District shall be and consist of the following wards, as newly numbered by this Act, namely: Tenth, eleventh, fourteenth, sixteenth, nineteenth and twentieth, as said wards were laid out under the provisions of the Act of 1898, aforesaid; that the fourth Councilmanic District shall be and consist of the following wards, as newly numbered by this Act: Seventeenth, eighteenth, twenty-first, twenty-second, twenty-third and twenty-fourth, as said wards were laid out under the provisions of the Act of 1898, aforesaid.

## LICENSES.

*Billiards.*

1870, ch. 250. P. G. L., (1888) Art. 56 sec. 8. P. L. L., (1888) Art. 4, sec. 641.

**658.** A license may be granted to any person who may apply for permission to keep a billiard table, for which license there shall be paid the sum of fifty dollars, and for every additional billiard table kept by the same person, he shall pay a license of twenty-five dollars; provided, that all said additional tables shall be kept in the same apartment; and *provided*, that this section shall not apply to any billiard table kept for private use.

*Germania v. State*, 7 Md. 1.

Under this section licenses are issued by the Clerk of the Court of Common Pleas, and the license fees payable to the State.

*Weber v. State*, 116 Md. 402.

1865, ch. 56. P. G. L., (1888) Art. 56, sec. 9. P. L. L., (1888) Art. 4, sec. 642.

**659.** Any person keeping or exhibiting for use a billiard table, 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., (1860) Art. 56, sec. 8. P. G. L., (1888) Art. 56, sec. 10.  
 P. L. L., (1888) Art. 4, sec. 643.

**660.** Nothing contained in the two preceding sections shall impair the right of the Mayor and City Council of Baltimore to impose a further tax on billiard tables.

1910, ch. 694.

**660a.** That no person shall engage in the business of private detective for hire or reward, whether for himself or as a member of or as an employee of any detective agency, firm or corporation, or advertise or hold himself out as a private detective in the City of Baltimore without first having obtained license so to do.

1910, ch. 694.

**660b.** That every person intending to engage in the business of private detective, whether for himself or as a member of or as an employee of any detective agency, firm or corporation in the City of Baltimore, shall present to the Board of Police Commissioners of Baltimore City a written application, duly signed and sworn to by such applicant. The Board of Police Commissioners, when satisfied from an examination of such applicant, and such further inquiry and investigation as it shall deem proper of the good character, competency and integrity of such applicant, shall issue and deliver to such applicant a license to engage in the business of private detective, upon the applicant paying to the said Board of Police Commissioners the license fee or charge as hereinafter provided. The license granted pursuant to this Act shall expire at midnight of December thirty-first in each and every year, but may be revoked at any time by the said Board; the fee or charge for the license so granted as aforesaid shall be twelve dollars for the entire twelve months, and if the license is issued in any month after January one-twelfth shall be deducted from the charge above stated for each expired month, but not fraction of a month; the license fee or charge herein prescribed and paid shall be by the said Board applied to the use and benefit of the fund in its charge, created by law and known and accounted for as the Special Fund.

1910, ch. 694.

**660c.** That the person so licensed as aforesaid, when engaged in the business of detective, shall have and exhibit when called upon to do so, the license certificate prescribed and issued by the said Board of Police Commissioners, which certificate

shall be returned to the said Board on the expiration of the license or upon the demand of said Board.

1910, ch. 694.

660d. That any person who shall, without the license and certificate hereinbefore designated, engage in the general business of a private detective, whether for himself or as a member of or as an employe of any detective agency, firm or corporation in Baltimore City, or advertise or hold himself out as a private detective in the said city, or who shall violate any of the provisions of sections 1, 2 and 3 of this Act, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than one hundred dollars, or be imprisoned in the Baltimore City Jail for not more than six months, or by both fine and imprisonment, in the discretion of the Court or Justice of the Peace trying the same; provided, however, that nothing in this Act shall apply to any detective, officer or police or policeman in the regular police force of Baltimore City, nor to any employe of any corporation not chiefly engaged in the private detective business but which corporation employs detectives as an incident to its business.

### HORSE DEALERS.

1884, ch. 446. P. L. L., (1888) Art. 4, sec. 647.

661. It shall not be lawful for any person, co-partnership, firm, corporation, joint stock company, brokers, commission merchants, agents, factors or other association of persons, to engage in or carry on the business, trade, occupation or calling of bartering, buying, selling, exchanging or dealing in horses, mares, geldings, jackasses, jennies or mules, either as an individual, co-partnership, firm, corporation, joint stock company, commission merchant, agent, factor, broker or other association for said purpose, without first obtaining from the Clerk of the Court of Common Pleas of Baltimore City a license for carrying on said business, for which every such person, if he desires to carry on said business individually, or if a firm or association, composed of not more than two persons, or corporation, shall pay the sum of fifty dollars, *provided*, that all the names and places of business of said persons so applying shall be inserted in said license; and if more than two individuals constitute and compose any such firm, co-partnership, joint stock company or association, then an additional sum of twenty-five dollars shall be paid for each and every other individual than the said two constituting such firm, co-partnership, joint stock

company or association, of individuals; and *provided*, further, that the said business shall not be carried on in any of the streets, lanes and alleys of the City of Baltimore.

1884, ch. 446. P. L. L., (1888) Art. 4, sec. 648.

**662.** Any person, and the individual members of any co-partnership or firm, the stockholders of any joint stock company or corporation, and any commission merchant, agent, factor, broker, or the individuals of any other association of persons so engaged in or carrying on the business, trade, occupation or calling of bartering, buying, selling, exchanging or dealing in horses, mares, geldings, jackasses, jennies, or mules, who or which shall violate any of the provisions of the preceding section, shall be liable to indictment therefor, and upon conviction thereof shall be fined one hundred dollars for each and every offense, one-half thereof for the use of the State and the other half thereof to the informer; provided, however, that nothing contained in this or the preceding section shall be construed to prevent breeders and owners of horses, mares, geldings, jackasses, jennies or mules, and owners residing in the counties of this State and doing business elsewhere than in the City of Baltimore, and all owners who do not follow the business, trade, occupation or calling of buying, vending, bartering, exchanging or dealing in horses, mares, geldings, jackasses, jennies or mules, from offering the same for sale, barter or exchange, or making sale of, bartering or exchanging such horses, mares, geldings, jackasses, jennies or mules, as they shall bring to the City of Baltimore, without a license; and nothing contained in this or the preceding section shall be held to apply to regularly licensed auctioneers in the City of Baltimore.

1884, ch. 446. P. L. L., (1888) Art. 4, sec. 649.

**663.** Any person or body corporate, owning or renting from the owner or his agent, any building or enclosure within the corporation limits of Baltimore City, and using the same in buying, selling, trading, exchanging, bartering or dealing in horses, geldings, mares or mules, or using the same in exhibiting or exposing for sale, trade, exchange or barter, horses, geldings, mares or mules, shall be deemed to be engaged in the business, trade, occupation and calling of buying, selling, trading, exchanging, bartering and dealing in horses, geldings, mares and mules, under the two preceding sections, and be held liable for a violation of any of its provisions.

## INSTALLATION OF ELECTRICAL APPARATUS AND WIRING.

1906, ch. 244, sec. 1.

**663a.** The Governor shall, within thirty (30) days after the passage of this Act, appoint a board which shall be known as the Board of Examiners and Supervisors, consisting of five (5) persons, for the purpose of examining into the qualifications and capabilities of all persons who are engaged or desire to engage in the business of Master Electrician as defined in section 5 of this Act. The board so appointed shall be competent practical electricians of Baltimore City and shall be selected as follows: two (2) from nominations made by the Electrical Contractors' Association of Maryland, one (1) from nominations made by the Chief of the Municipal Electrical Inspectors of Baltimore City, one (1) from nominations made by the Association of Fire Underwriters of Baltimore City, and one (1) person residing in Baltimore City, who shall be a practical journeyman electrician who has served at the business for a period of not less than ten years and a majority of said Board shall constitute a quorum to transact the business thereof. The term of office of the members of the first number so appointed shall be as follows: the nominee from the Underwriters Association, one (1) nominee from the Electrical Contractors' Association, two (2) years; the nominee from the Municipal Inspector, one (1) nominee from the Electrical Contractors' Association, and the person at large two (2) years unless removed for cause. Should any vacancy occur from any cause during the term of any Board as herein provided, the Governor shall appoint some one from nominations made as above provided to fill such vacancy. The Governor shall have full power to remove any member of the Board for incompetency or improper conduct upon satisfactory evidence being presented to him of such condition.

Sections 663a to 663q, inclusive, of this codification, embody verbatim, respectively, sections 1 to 17, inclusive, of the Act 1906, ch. 244. The Act takes effect from the date of its passage and repeals inconsistent Acts. The caption assigned to the Act is intended to facilitate reference thereto.

1906, ch. 244, sec. 2.

**663b.** The members of said Board shall respectively take and subscribe the oath required by other State officers. They shall have power to elect out of their number, a President, Secretary and Treasurer, to adopt such rules and by-laws for the transaction of business of the Board as they may deem expedient.

1906, ch. 244, sec. 3.

**663c.** Each member of said Board shall receive a compensation of five dollars (\$5.00) per day for actual service in attending meetings of the Board, which compensation shall be paid out of any moneys in the hands of the Treasurer of said Board; provided, that the Secretary of said Board may receive such additional compensation as the Board may deem just and reasonable, and for which the by-laws of the said Board may provide; *provided*, however, that the compensation and expenses of said Board shall in no event, be paid out of the funds in the State Treasury or become a charge against the State.

1906, ch. 244, sec. 4.

**663d.** Said Board shall meet at least once in each month in Baltimore City, and shall hold special meetings as frequently as the proper and efficient discharge of its business shall require, and said Board shall adopt such rules and regulations for the examinations of Master Electricians as herein defined, and for the placing, installing and operating electrical wires, appliances, apparatus or construction in, upon and about buildings in the said City of Baltimore, and when so adopted, such rules and regulations shall have the same force and effect as if herein contained, and the rules of said Board shall also provide for the giving of timely notice of such meetings to all those who shall have made application for a license as herein provided, and said Board shall give in writing to the Chief of the Municipal Electrical Inspectors of Baltimore City a detailed statement of all the licenses issued, renewed or revoked at any meeting of said Board.

1906, ch. 244, sec. 5.

**663e.** The term Master Electrician, as used in this Act, shall be defined as and including any and all persons, firms and corporations engaged in business of, or holding themselves out to the public as engaged in the business of installing, erecting or repairing, or contracting to install, erect or repair electric wires or conductors, to be used for the transmission of electric current for electric light, heat, or power purposes, or mouldings, ducts, raceways or conduits for the reception or protection of such wires or conductors, or to any electrical machinery, apparatus, devices or fixtures to be used for electric light, heat or power purposes. A license of "Master Electrician" issued and in accordance with the provisions of this Act, shall entitle any such person, firm or corporation so licensed to engage in the business of and to hold himself or itself out to the public as engaged in the business of installing, erecting and repairing and of con-



tracting to install, erect and repair any electric wires or conductors, etc.

1906, ch. 244, sec. 6.

**663f.** Before any person, firm or corporation shall hereafter engage in the business of a Master Electrician in Baltimore City, as defined in this Act, and before any person, firm or corporation now engaged in said business or any class thereof, shall continue in said business of Master Electrician, such person, firm or corporation shall apply to said Board for a license, as herein required, whereupon the applicant shall present himself before the said Board at a time and place fixed by said Board. If the Board shall find upon due examination that the applicant presenting himself has a reasonable knowledge of electricity and the natural laws and functions of electric wires, appliances and devices for electric light, heat and power purposes, and is possessed of skill and of knowledge in all matters appertaining to the business of Master Electrician, as defined in section 5 of this Act, then the said Board, upon payment of the fee and upon executing the bond herein provided for, shall issue to the said person, firm or corporation a license as Master Electrician to practice said business for a term of one year; and shall register such person, firm or corporation as duly licensed Master Electrician; provided, however, no person, firm or corporation who shall have been engaged in the electrical contracting business in the City of Baltimore for a period of three (3) years prior to the passage of this Act, shall be required to take the examination as provided in this section, before the issuance of such license, and provided that no license shall be granted to any person under the age of twenty-one (21) years, nor shall any license be granted to any person who has not taken and subscribed an oath that he, or, in case of a corporation, the one managing the electrical work thereof, and in case of a firm, the one managing the electrical work, has had at least three (3) years actual experience as a Master Electrician within the meaning of section 5 of this Act, or as journeyman electrician in such class or classes of electrical business or work, as in the opinion of the Board, shall have properly fitted the applicant for a license as a Master Electrician. Any person whose application for a license shall have been rejected by said Board, shall have the right to appeal to a Board of Arbitration, which shall consist of one person selected by the person making the appeal, one person selected by the Board herein created, and these two to select a third person, and the decision of said Board of Arbitration or a majority of them shall be final and binding

upon all the parties to said appeal; the members of said Board shall be paid the sum of five dollars (\$5.00) each, which sum shall be deposited with the Board herein created by the person taking said appeal and if the said Board of Arbitration shall affirm the decision of the Board herein created, the money so deposited shall be used to pay said Board; if, however, such decision be reversed, the said Board of Arbitration shall be paid out of the funds in the hands of the Board herein created, and said deposit of fifteen dollars (\$15.00) shall be returned; provided, further, that each applicant shall pay to the Treasurer of said Board of Electrical Examiners, the sum of twenty-five dollars (\$25.00) for such license, and provided, further, that every person, firm or corporation before receiving a license shall make, execute and deliver to said Board a good and sufficient bond to be approved by said Board, in the name of the State of Maryland, in the penal sum of one thousand dollars (\$1000.00) the bond to be conditioned upon the faithful performance of any and all work entered upon or contracted for by said Master Electrician, and to save harmless the owner, or real party in interest in the property for which any such material is furnished, or services performed against loss, damage and injury which shall arise through want of skill, or through the failure to use suitable or proper material in the performance of any work contracted for or undertaken by said Master Electrician, or his or its agents or employees, and an action may be maintained thereon in the name of such owner or real party in interest only, if commenced within one (1) year from and after the date of the installation of the materials furnished or performance of such work or service.

1906, ch. 244, sec. 7.

**663g.** Each and every license issued under the provisions of this Act shall be evidence in any Court of the city named herein of the business for which the license issued for a period not to exceed one (1) year from the date thereof. All licenses and renewals of same shall expire on the first day of May in each year.

1906, ch. 244, sec. 8.

**663h.** No person, firm or corporation granted a license under the provisions of this Act shall install or repair electrical wires, conductors or apparatus for electric light, heat or power purposes after the expiration of said licenses, or after said license shall have been revoked as herein provided, unless the said license or renewal of same shall have been renewed as

herein provided; provided, that any person, firm or corporation so granted a license under the provisions of this Act, (unless the said license shall have been revoked as hereinafter provided), shall be granted a renewal of said license without examination of the applicant, provided, application is made to the said Board by the holder of such license within the three months preceding the expiration of such license, upon payment of a fee of ten dollars (\$10.00), and the said renewal of said license shall be for a period of one (1) year, and any such renewal of such license shall have the same weight as evidence in any Court of this State as hereinbefore provided for said original license; provided also, that one year renewals shall be granted in like manner upon expiration of any renewal of license upon making like application and paying like fee, within three months preceding the expiration of said renewal.

1906, ch. 244, sec. 9.

**663i.** Said Board shall have full power to revoke for proper cause any license or renewal of same after a full hearing of all parties in interest.

1906, ch. 244, sec. 10.

**663j.** Each license and renewal of same shall be in force and effect only so long as an approved bond filed with the said Board in accordance with the provisions of this Act shall remain in full force and effect, and every such license or renewal of same shall become utterly void and of no effect, should any such bond for any reason whatsoever become inoperative or ineffective, regardless of the regular date of expiration of said certificate, license or renewal.

1906, ch. 244, sec. 11.

**663k.** Any and all persons granted a license or renewal of same shall display the same in a conspicuous place in the office or place of business of such licensee.

1906, ch. 244, sec. 12.

**663l.** Nothing in this Act shall be construed to prevent any person from doing or performing any of the kinds of work enumerated in section 5 of this Act, provided that such work is performed under the direction and supervision of a duly licensed Master Electrician; but no such work, other than minor electric repairs for the maintenance of established plants, shall be performed excepting under such direction and supervision of a duly licensed Master Electrician, and the said licensed electrician shall be responsible for any and all work so done under his direction and supervision.

1906, ch. 244, sec. 13.

**663m.** Any person, firm or corporation who shall practice or engage or continue in the work of a Master Electrician without having complied with all the provisions of this Act, and any person not licensed as Master Electrician, who shall do or perform any such work except under the direction of a Master Electrician, and any person having been licensed as a Master Electrician and who shall fail to renew his license as herein provided, and shall do or perform any such work, or who shall violate any of the provisions of this Act, shall be guilty of a misdemeanor, and upon conviction thereof shall be sentenced to pay a fine of not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00) or to an imprisonment not exceeding ninety (90) days, or both, in the discretion of the Court, and any such conviction shall *ipso facto* revoke and annul any license that may have been issued to such person.

1906, ch. 244, sec. 14.

**663n.** No license or renewal of same granted or issued under the provisions of this Act shall be assignable or transferable, and every license and renewal of same shall specify the name of the person, firm or corporation to whom it is issued, and in the case of a firm, the member of said firm, and in the case of a corporation, the principal officer or the designated representative of said corporation, through whom the application for the said license was made.

1906, ch. 244, sec. 15.

**663o.** All fees collected under the provision of this Act shall be for the use of said Board to defray its necessary expenses.

1906, ch. 244, sec. 16.

**663p.** It shall be the duty of the said Board before the first Monday of May of each year to make a report in writing to the Governor of the State, containing a detailed statement of the nature of the receipts and manner of expenditure, and any balance of money remaining at the end of the year, after payment of expenses, shall be reserved by the treasurer of said Board to meet the expenses for the ensuing year.

1906, ch. 244, sec. 17.

**663q.** The provisions of this Act shall not apply to journey-men electricians or apprentices while such journeymen or apprentices shall be practicing their trade of journeyman electri-

cian or apprentice, nor to any electric light company, electric railway company, steam railway company, telegraph or telephone company doing such work in its own buildings, upon its own plants.

## LIQUOR AND INTOXICATING DRINKS.

### SALE FORBIDDEN IN CERTAIN PLACES.

1882, ch. 107. P. L. L., (1888) Art. 4, sec. 651.

**664.** It shall not be lawful for the Clerk of the Court of Common Pleas to issue license to any person to sell spirituous or fermented liquors or lager beer at Mt. Vernon factories, or at any place within three-fourths of a mile thereof, or on Madison Avenue extended.

As to power of Legislature to restrict sale of spirituous or fermented liquors in certain districts, *see*,

Parker v. State, 99 Md. 189.

1864, ch. 206. P. L. L., (1888) Art. 4, sec. 652.

**665.** It shall not be lawful for the Clerk of the Court of Common Pleas to issue a license to any person to sell spirituous or fermented liquors or lager beer at Woodberry factory, or at any place nearer thereto than three-fourths of a mile in every direction.

1888, ch. 56. 1888, ch. 98, sec. 11. P. L. L., (1888) Art. 4, sec. 653.

**666.** It shall not be lawful for the Clerk of the Court of Common Pleas to issue license to any person to sell spirituous or fermented liquors or lager beer in any part of the following district, to wit: In all that part of Baltimore City bounded on the east by Mount Royal terrace, on the south by North or Boundary avenue, on the west by Druid Hill avenue extended, and on the north by Druid Hill Park.

1902, ch. 228. 1906, ch. 298.

**666a.** It shall not be lawful for the Clerk of the Court of Common Pleas of Baltimore City to issue licenses to any person or persons or body corporate to sell spirituous or fermented liquors or lager beer nearer than three-fourths of a mile in all directions, from Walbrook public school, formerly known as annex school No. 15, in the City of Baltimore.

1904, ch. 600.

**666b.** It shall not be lawful for the Clerk of the Court of Common Pleas of Baltimore City, to issue license to any

person or persons or body corporate, to sell spirituous or fermented liquors or lager beer in any part of the following district, to wit: In all parts of Baltimore City lying or being within the following lines or limits: Beginning at the southwest corner of Oak street and Twenty-first street, and running thence north and bounding on the west side of Oak street to the northwest corner of Oak and Twenty-fourth streets, thence running east and bounding on the north side of Twenty-fourth street to the northeast corner of Twenty-fourth street and Guilford avenue, thence running south and bounding on the east side of Guilford avenue to the southeast corner of Guilford avenue and Twenty-first street, and thence running west and bounding on the south side of Twenty-first street, to the place of beginning.

1904, ch. 626.

**666c.** It shall not be lawful for the Clerk of the Court of Common Pleas of Baltimore City to issue to any person or persons, company, association or body corporate a license to sell any fermented or spirituous liquors or lager beer in any part of the following district, to wit: In all that part of Baltimore City beginning for the same at the intersection of the western line of Baltimore City and the south side of Edmondson Avenue, and thence running easterly along the south side of Edmondson Avenue to the westernmost side of Fifteenth Street; thence binding on the westernmost side of Fifteenth Street southerly to its intersection with the southwesternmost side of Dorsey's lane; thence southeasterly binding on the southwesternmost side of Dorsey's lane to its intersection with the northwesternmost side of Kossuth Street; thence southwesterly along the northwesternmost side of Kossuth Street to its intersection with the southernmost side of Old Frederick Road; thence southeasterly along the south side of Old Frederick Road to the westernmost boundary of the lot now improved by the Public School No. 66; thence southerly and binding for a part thereof on the westernmost boundary of said lot in a direct line to the southernmost side of Frederick Road; thence southeasterly along the southernmost side of the Frederick Road to the easternmost boundary of the United States National Cemetery; thence southerly and binding for a part thereof on the easternmost boundary of said cemetery to the southwesternmost side of the tracks of the Baltimore and Potomac Railroad; thence southwesterly along the line of said tracks to the intersection of the same with the southern boundary line of Baltimore City; thence westerly along said line to the western boundary line of said

city; thence north binding on said last mentioned line to the place of beginning.

1906, ch. 279.

**666d.** It shall not be lawful for the Clerk of the Court of Common Pleas of Baltimore City, to issue license to any person or persons, or body corporate, to sell spirituous or fermented liquors or lager beer, in any part of the following district, to wit: In all parts of Baltimore City lying or being within the following lines or limits: Beginning at the southeast corner of the intersection of the Western Maryland Railroad and the northern boundary of the city line, and running thence easterly bounding on the said city line to the western line of the Northern Central Railroad; thence southerly bounding on the western line of the Northern Central Railroad, to a point where the northern boundary of Druid Hill Park would intersect if continued east to said point of intersection; thence westerly bounding on the north side of Druid Hill Park and continuing the same course until the said line shall intersect the eastern side of the Western Maryland Railroad, thence northerly, bounding on the east side of the Western Maryland Railroad to the place of beginning.

1906, ch. 780.

**666e.** It shall not be lawful for the Liquor License Commissioners, or the Clerk of the Court of Common Pleas to issue licenses to any persons to sell spirituous, fermented liquors or lager beer in any part of the following districts: In all that part of Baltimore City bounded: Beginning at a point where Twenty-eighth Street extended westwardly would touch Jones' Falls, and running from this point eastwardly along the center line of Twenty-eighth Street as laid out, and extending said center line eastwardly to the center line of Calvert street, and thence northerly along the center line of Calvert Street, and continuing said center line northerly to a point three hundred feet north of Merryman's Lane and thence running parallel with Merryman's Lane and three hundred feet northerly from said Lane to the line of Cedar Avenue extended, thence westwardly on the south side of Cedar Avenue to Jones' Falls, and thence southerly along Jones' Falls to the point of beginning.

1908, ch. 568.

**666f.** That it shall not be lawful for the Clerk of the Court of Common Pleas of Baltimore City, or the Clerk of the Circuit Court for Baltimore County, to issue to any person or persons, company, association or body corporate, a license to sell spiritu-

ous or fermented liquors, or lager beer, in any and all parts of Baltimore City and in any and all parts of Baltimore County lying within fifteen hundred yards (1,500 yards) in any direction from the public school at Forest Park, in Baltimore City, known as School No. 64, situated on Maine Avenue, the New Liberty Road and Forest Avenue.

1890, ch. 343. P. L. L., (1888) Art. 4, sec. 653A. 1894, ch. 86.

**667.** No person shall offer for sale or keep for sale in the City of Baltimore any intoxicating liquors, except as hereinafter provided; but this shall not apply to sales made by a person under a provision of law requiring him to sell personal property, nor to sales of liquors, by wholesale, nor to sales by the maker, brewer or distiller thereof, nor to sales by bottlers of fermented liquors, nor to be drunk on the premises; save and except as hereinafter specially provided in reference to wholesale dealers and jobbers, brewers, distillers and bottlers, in section 688, wherein the rights and duties of said classes of persons are set forth and defined. Wherever the term intoxicating liquors is used in this sub-division of this Article, it shall be deemed to include whiskey, brandy, rum, gin, wine, ale, beer and all other fermented and distilled liquors, every mixture of liquors which shall contain more than two per cent. by weight of alcohol, and every mixture of liquors which shall contain less than two per cent. of alcohol if the same shall be intoxicating. Nothing in this sub-division of this Article shall be construed to authorize the sale of any intoxicating liquor or any admixture thereof in any part of said city where such sale is or shall hereafter be prohibited by special law.

State v. Stiefel, 74 Md. 546. Trageser v. Gray, 73 Md. 251.

1890, ch. 343. 1892, ch. 13. P. L. L., (1888) Art. 4, sec. 653B.

**668.** The Governor, by and with the advice and consent of the Senate, shall appoint three persons who shall constitute a Board of Liquor License Commissioners for Baltimore City, who shall hold office for two years, and until their successors are appointed and qualified; and their duties shall be such as hereinafter described; *provided*, however, that the Liquor License Commissioners appointed in April eighteen hundred and ninety, shall continue in office until the expiration of the term for which they were appointed.

Trageser v. Gray, 73 Md. 251.



1890, ch. 343. P. L. L., (1888) Art. 4, sec. 653C. 1900, ch. 704. P. L. L., (1898) Art. 4, sec. 669. 1908, ch. 197.

**669.** Said Board shall appoint such clerk or clerks and counsel as the proper transaction of the business of the Board shall require, and shall keep a full record of all applications for licenses, of all recommendations for and remonstrances against the granting of licenses, and their action thereon; and the vote of the members of said Board by yeas and nays shall be taken on the question of granting or refusing every application for licenses, and whenever any license granted by said Board shall be hypothecated or assigned for any of the purposes set forth in section 690A of this Article, the said Board shall at the request of the person, firm, association or corporation to whom said license has been hypothecated or assigned, record the instrument of hypothecation or assignment in a suitable book kept for that purpose and shall return said instrument to the party presenting the same after having endorsed thereon the fact of such recording and the day and date thereof; and said records of said Board shall at all suitable times be open to the inspection of the public, and shall be deemed and taken as actual notice to all persons of the matters and facts recorded therein; all necessary books and stationery shall be furnished by the Mayor and City Council of Baltimore, and all salaries and expenses incident to the business of the Board shall be paid by the Mayor and City Council of Baltimore.

1890, ch. 343. 1892, ch. 704. 1900, ch. 704. P. L. L., (1888) Art. 4, sec. 653D. P. L. L., (1898) Art. 4, sec. 670.

**670.** The said Board shall fix the salaries of all clerks and counsel appointed by them for the performance of the duties imposed by this sub-division of this Article; any member of said Board shall each receive a salary of two thousand dollars annually, to be paid as the salaries of the officers of the City of Baltimore are paid.

1890, ch. 343. 1894, ch. 86. P. L. L., (1888) Art. 4, sec. 653E.

**671.** No licenses to sell intoxicating liquors, other than by wholesale traders, distillers, brewers, rectifiers, and bottlers of fermented liquors, shall be granted in the City of Baltimore except by said Board, and only to citizens of the United States of temperate habits and good moral character, who have complied with the requisites of this sub-division of this Article.

P. L. L., (1888) Art. 4, sec. 653F. 1890, ch. 343. 1894, ch. 86. 1908, ch. 196.

**672.** All licenses to sell spirituous or fermented liquors shall

expire on the first day of May next ensuing the date of their issue, and shall be issued for twelve or six months only and for no other periods of time; all twelve months' licenses shall be granted to begin only from the first day of May in the year of their issue, and all six months' licenses shall be granted to begin only from the first day of November and from no other time, in the year of their issue; and all applications shall be filed before the first day of May or the first day of November respectively; provided, however, that the rates for the six months' licenses shall be in the proportion of one-half to the rates of the twelve months' licenses as hereinafter provided by this sub-title of this Article; provided, further, that nothing in this section shall be construed to affect the transfer of licenses as now provided in this law.

1890, ch. 343. 1900, ch. 442. P. L. L., (1888) Art. 4, sec. 653G.

**673.** Every person applying for a license to sell intoxicating liquors in said city shall file with the said Board his, her or their petition for such license, and the Board shall cause notification of such petition to be published three times in three newspapers of general circulation in said city (one of which shall be printed in the German language), to be designated by said Board, the first publication to be not less than fifteen nor more than thirty days before the time fixed by the Board for action on said petitions.

P. L. L., (1888) Art. 4, sec. 653H. 1890, ch. 343. 1906, ch. 278.  
1908, ch. 281.

**674.** Said petition shall contain the name and residence of the applicant, and how long he has resided there; (2) the particular place for which a license is desired, designating the same by street and number, if practicable, and, if not, by such other apt description as definitely locates it; (3) the kind of license desired, whether a saloon license, hotel license or retail grocer's license; (4) the name of the owner of the premises upon which the business licensed is to be carried on; (5) a statement that the applicant is a citizen of the United States, and that it is necessary for the accommodation of the public that the place should be licensed; (6) that the applicants have not, or has any of them, had a license for the sale of intoxicating liquors in this State revoked, nor has been convicted of any crime within one year preceding the filing of said petition; (7) that he or she will not knowingly sell, or allow to be sold in the said house or on the said premises any such liquor on Sunday or on election days, or to minors at any time, or allow a minor

to drink in said house or on said premises; that he or she will not keep or permit to be kept a bawdy house in the said house or on said premises, or the gathering together or the visitation to said house or premises of women for lewd or immoral purposes; (8) this petition must be verified by the affidavit of the petitioner, made before a justice of the peace; if any false statement is made in any part of said petition, the petitioner shall be deemed guilty of perjury, and upon indictment and conviction thereof, his license shall be revoked, and he shall be subject to the penalties provided by law for that crime.

*Ordinary, License for.* The oath prescribed by sec. 68, Art. 56, Public General Laws of Maryland, must be administered before a license can be validly issued for an ordinary, notwithstanding the practice in vogue in Baltimore City. *Blackburn v. Livingstone*, Daily Record, Jan. 15, 1900. *Note* provisions of section 689 of this Article.

1890, ch. 343. P. L. L., (1888) Art. 4, sec. 653I.

**675.** There shall be annexed to this petition a certificate signed by at least ten respectable qualified voters residing or doing business in the ward in which the petitioner asks to do business, stating the residence or place of business of each person, certifying and setting forth that they have been acquainted with the petitioner or petitioners for (specifying the length of such acquaintance), that they have good reason to believe that all the statements contained in the petition are true, and they, therefore, pray that the prayer of said petition be granted, and the license issued as prayed for.

1890, ch. 343. P. L. L., (1888) Art. 4, sec. 653J.

**676.** The said Board shall publicly hear petitions from residents of the ward or persons living or doing business in the vicinity of the place for which license is prayed, in addition to that of the petitioner, in favor of, and remonstrance against the granting of said license; and in all cases shall refuse the same, whenever, in the opinion of the said Board such license is not necessary for the accommodation of the public, or the petitioner or petitioners is or are not fit persons to whom such license should be granted; and if sufficient cause shall at any time be shown, or proof be made to the said Board, that the party licensed was guilty of any fraud in procuring such license, or has violated any law of the State relating to the sales of intoxicating liquor, the said Board shall, after giving notice to the person so licensed, revoke said license; and the Criminal Court of the City may in like manner revoke said license if the party should be convicted before it of any such violation.

*Trageser v. Gray*, 73 Md. 253.

*Liquor License Commissioners.* As to powers of Liquor License Commissioners of Baltimore City to revoke a license on sufficient cause, and the extent of the Board's discretionary powers, in relation thereto, *see*, Childs v. White, Daily Record, December 16, 1890.

1908, ch. 281.

**676A.** Any club, society or association whatever, whether incorporated or not, now in existence or hereafter to be formed, desiring to sell or furnish intoxicating liquors to its members or guests, in order to do so shall first obtain a club license from the said Board upon its application therefor to be made by a petition to be signed and sworn to in due form of law on its behalf by its president or secretary. Every such petition shall affirmatively show: First, that the applicant is a bona fide social club or society or association, composed of reputable citizens over twenty-one years of age, duly organized with officers and a constitution or by-laws, that by the terms of such constitution or by-laws the members of such applicant are required to be elected by a formal vote of its members, directors or governing body and to pay after election a substantial entrance or initiation fee, and substantial annual or semi-annual dues during their membership, and that the membership in said club, society or association is bona fide and real. Second, that the applicant was not and is not organized for the purposes of profit and does not seek a club license to sell or furnish intoxicating liquors for any purpose other than the accommodation of its members and duly recognized and registered guests. Third, the particular place in which the applicant's club, society or association is located, and proposes to sell or furnish intoxicating liquors, and that such place is not in any building which contains any saloon or other establishment that may be licensed under this sub-division of this Article to sell liquors, designating such place by street and number, or otherwise definitely to the satisfaction of the said Board. Fourth, the name of the owner of the premises so used or occupied by said applicant. Fifth, that the applicant has not had a license for the sale of intoxicating liquors in this State revoked nor has it been convicted of any crime within one year preceding the filing of said petition. Sixth, that the applicant will obey and observe all laws applicable to it prohibiting the sale of intoxicating liquors upon its premises or by it on any days or occasions in said laws mentioned, and will, at all times, to the best of its ability, prevent the sale of intoxicating liquors therein from becoming the source of any disturbance of the peace or good order of the city. No signers shall be required to attest

the character of applicants for a club license, but with the application shall be filed a sworn list of the bona fide members of such club, society or association, and before issuing the license applied for the said Board shall be satisfied that the applicant is, in fact, such a legitimate bona fide organization as it claims to be, and that it would not be a nuisance to the neighborhood in which it is located, and for such purpose the Board may call for such other and additional evidence as to it may seem proper, and may hear petitions in opposition thereto, as provided in sections 676 and 687 of this Article.

1890, ch. 343. P. L. L., (1888) Art. 4, sec. 653K.

**677.** No license shall be issued to any person or persons until he, she or they shall have paid the license fees provided for in this sub-division of this Article.

P. L. L., (1888) Art. 4, sec. 653L. 1894, ch. 86. 1906, ch. 278. 1908, ch. 196. 1914, ch. 853.

**678.** If after the notice and hearing provided for in this sub-division of this Article, the said Board shall decide to grant the license prayed for, they shall notify the applicant of such decision in writing, and if the applicant shall, within thirty days from the date when such license granted is to become effective, produce to the Clerk of the Court of Common Pleas, the said notification, and pay said Clerk the sum of money herein specified for the particular license prayed for, the said Clerk shall thereupon issue to him the license granted to him by the said Board; but every grant of a twelve months' license upon which no license has been actually taken out and paid for prior to the first day of June, in the year of its issue, and every grant of a six months' license upon which no license has been actually taken out and paid for prior to the first day of December, in the year of its issue, shall be after the said first day of June or December, respectively, null and void, and no license shall be issued thereupon.

For a saloon or restaurant in which distilled liquors or any mixture of distilled liquors containing more than fifteen per centum of alcohol or fermented liquors containing less than fifteen per centum of alcohol, may be sold by retail, by the drink, or in quantities or packages not exceeding five gallons of any spirituous or fermented liquors, except lager beer, and not exceeding one keg of eight gallons or less of lager beer to be drunk on the premises or not, as desired by the purchaser, the sum of one thousand dollars shall be paid for a twelve months' license for the twelve months beginning on May 1st, 1914, and

for each succeeding term of twelve months beginning on the first day of May in each and every year thereafter; and a sum equal to one-half of said sum, shall be paid for a six months' license. For a hotel license the same amounts shall be paid in the same manner.

For a club license, the sum of seven hundred and fifty dollars shall be paid for a twelve months' license for the term of twelve months beginning on the first day of May in each and every year, accounting from May 1, 1914, and a sum equal to one-half of said sum of \$750.00 shall be paid for a six months' license. For a retail grocers' license, the sum of five hundred dollars shall be paid for a twelve months' license for each term of twelve months, beginning on the first day of May, in each and every year, accounting from May 1st, 1908, and a sum equal to one-half of said sum of five hundred dollars shall be paid for a six months' retail grocer's license; provided, however, that none but a bona fide retail grocer who shall make application to said Board therefor, shall receive a retail grocer's license, and no such retail grocer's license shall be given to anyone except on complying with the conditions of this Act, and such license shall only entitle such licensee to sell wines, spirituous or fermented liquors, as aforesaid, in quantities or packages of not less than one pint; but in no case to be drunk on the premises; nor shall such retail grocer's license to sell wines, spirituous or fermented liquors, as aforesaid, be given to any applicant who, or whose concern generally keeps on hand, or in case of applications for the first time, expects to generally keep on hand, at the principal season of sale, an amount of stock of wines, spirituous or fermented liquors in excess of thirty per centum of the total amount of stock of goods, wares and merchandise generally kept on hand by him, or the said concern, at the principal season of sale; and every applicant for such retail grocer's license shall, in addition to the statement on oath, now required by law of applicants for trader's license, as to their total stock of goods, wares and merchandise, state to the Clerk of the Court of Common Pleas, on oath to be administered by the Clerk, the amount of said applicant's stock of wines, spirituous or fermented liquors generally kept on hand by him, or the concern in which he is engaged at the principal season of sale or if said applicant shall not have previously engaged in such trade or business, the amount of such stock he expects to keep as aforesaid. In no case shall a license to sell intoxicating liquors by the drink be granted to any person who shall obtain a license to sell goods, wares or merchandise other than intoxicating upon the said premises.

when such intoxicating liquors are licensed to be sold, but licensed saloonkeepers may also sell tobacco and non-alcoholic beverages; provided, further, that no retail licenses shall be issued to any distiller or brewer.

P. L. L., (1888) Art. 4, sec. 653M. 1890, ch. 343. 1908, ch. 196.

**679.** The whole of the money received by the Clerk of the Court of Common Pleas for the licenses aforesaid shall be paid over quarterly by said clerk of the Court of Common Pleas to the State, as now provided by law, and when so paid over, the Comptroller of the Treasury shall draw his warrant upon the Treasurer in favor of the Mayor and City Council of Baltimore for three-fourths thereof, to be applied to the general use of said city.

1890, ch. 343. P. L. L., (1888) Art. 4, sec. 653N.

**680.** Every person receiving a license under this sub-division of this Article shall frame his license under a glass, and place the same so that it shall at all times be conspicuous and easily read, in his chief place of making his sales, and no license issued under this sub-division of this Article shall authorize sales by any person who shall neglect this requirement.

1890, ch. 343. P. L. L., (1888) Art. 4, sec. 653O.

**681.** No licensee under the provisions of this sub-division of this Article shall sell or furnish any intoxicating liquors at any time to a minor, either for his or her own use, or for the use of any other person, or to a drunkard, or to any person whose parent, guardian, husband, wife or child shall have given to such licensee a notice in writing, verified by affidavit, that such person is of intemperate habits, and requesting such licensee not to sell to him or her, or to a person visibly affected by intoxicating drinks.

*Peterson v. State*, 83 Md. 194.

P. L. L., (1888) Art. 4, sec. 653P. 1890, ch. 343. 1894, ch. 257.  
1908, ch. 281.

**682.** No licensee under the sub-division of this Article holding any other than a hotel license, shall sell or furnish to any person intoxicating liquors on any day upon which elections are now, or may hereafter be required by law to be held nor on the Lord's Day, commonly called Sunday; no licensee under the sub-division of this Article holding any other than a hotel or a club license shall sell or furnish to any person intoxicating liquors between the hours of twelve midnight and five o'clock

A. M., nor in any place to which an entrance shall be allowed other than directly from a public-traveled way. Nor shall any such licensee holding a hotel license sell or furnish any such intoxicating liquors on said prohibited days, except to bona fide registered guests to be drunk in their rooms or at their meals, nor shall any club licensees sell or furnish such liquors to any person at any time between the hours of one o'clock A. M. and five o'clock A. M. on any day. And provided, further, that any licensees under the sub-divisions of this Article may with the permission of the Board of Police Commissioners at any bona fide entertainment of any society, club or association, sell intoxicating liquors between such hours as the Board aforesaid may designate in such permit.

In connection with provisions of section 682. *see*, *McCracken v. State*, 71 Md. 154 and *Parker v. State*, 99 Md. 189.

Maryland Club cannot furnish liquor on Sunday to its members.  
*State v. Maryland Club*, 105 Md. 586.

1890, ch. 343. P. L. L., (1888) Art. 4, sec. 653Q.

**683.** Druggists and apothecaries shall not be required to obtain license under the provisions of this sub-division of this Article, but they shall not sell intoxicating liquors nor compound or mix any composition thereof, except upon the written prescription of a regular physician; nor more than once on any one prescription of the physician; and every druggist or apothecary shall keep a book for the special purpose and enter therein the date of every sale of intoxicating liquor made by him, the person to whom sold, the kind, quantity and price thereof, and the purpose for which it was sold, and such book shall be at all times open to the said Board, or of any person designated and authorized by them to make such inspection, and shall be produced before such Board when required; and any failure to comply with the provisions of this section shall render such druggist or apothecary so failing, liable to the same penalties as if he had sold intoxicating liquors without a license.

1890, ch. 343. P. L. L., (1888) Art. 4, sec. 653R.

**684.** Any person who shall hereafter be convicted of selling intoxicating liquors, or any admixture thereof, in the City of Baltimore, without a license under the provisions of this sub-division of this Article, shall be sentenced to pay a fine of not less than five hundred dollars nor more than five thousand dollars, or undergo imprisonment in the jail of said city, or in the House of Correction of not less than three months, nor more than twelve months, or to both fine and imprisonment, at the discretion of the Court.



1890, ch. 343. P. L. L., (1888) Art. 4, sec. 653S.

**685.** Any person having a license under the provisions of this sub-division of this Article who shall hereafter be convicted of violating any of the provisions of this sub-division of this Article or of the conditions of his license, shall be subject to a fine of not less than one hundred or more than five hundred dollars; and for any second offence, whereof he shall be convicted, his license shall be vacated and revoked, and he shall be subject to a fine of not less than five hundred nor more than one thousand dollars, or to imprisonment in the jail or the House of Correction for not less than three months, nor more than twelve months, or to both fine and imprisonment at the discretion of the Court. The license of any person who permits minors to frequent or loiter about his place, or disreputable or disorderly persons to make it a customary place of visitation or resort, may be at any time, upon proof, revoked by the Criminal Court of Baltimore City, or by said Board, the same person shall not again be licensed within two years of the time of such revocation. Nothing in this sub-division of this Article shall be construed to repeal or modify any of the provisions contained in, or the penalties imposed by any law of this State forbidding or restricting the sale of intoxicating liquors on a day on which elections are held.

1890, ch. 343. P. L. L., (1888) Art. 4, sec. 653T.

**686.** Upon complaint or allegation by any qualified voter of Baltimore City who shall give security for the cost of prosecution, that any license has been corruptly or knowingly issued by said Board to any person who has not complied with the provisions of this sub-division of this Article, it shall be the duty of the State's Attorney to file in the Criminal Court of Baltimore City an information against said Board and against said licensee, and if it shall be found that such license was improperly issued, said license shall be revoked, and the members of said Board who voted in favor of issuing said license shall in addition to the other penalties for malfeasance in office be removed from said office.

1892, ch. 641. P. L. L., (1888) Art. 4, sec. 653U.

**687.** For the purpose of all hearings and inquiries which the Board of Liquor License Commissioners are authorized to have and make, they are hereby authorized to issue summonses for witnesses and administer to them oaths or affirmations, and all summonses so issued shall be served by the police force of the

City of Baltimore. If any witness so summoned shall refuse or neglect to attend, or attending, refuse to testify, the said Board shall report the facts to the Superior Court of Baltimore City, which is hereby authorized and directed to proceed by attachment against said witnesses in all respects as if said neglect or refusal had been by witnesses summoned to appear in said court in cases pending before it.

P. L. L., (1888) Art. 4, sec. 653V. 1894, ch. 86. 1906, ch. 278.  
1908, ch. 196.

**688.** Distillers, brewers and wholesale dealers or jobbers, other than wholesale druggists, shall be allowed to sell spirituous liquors in quantities of not less than one pint each, and fermented liquors in packages of not less than two dozen pint bottles or twelve quarts each, but in no case to be drunk on the premises; distillers and brewers shall require no licenses; wholesale dealers and jobbers, other than wholesale druggists, shall be entitled to receive a license as such, to sell as above stated and not otherwise, upon applying directly to the clerk of the Court of Common Pleas and paying to him the sum of five hundred dollars for the twelve months beginning on May 1, 1908; the sum of seven hundred and fifty dollars for the twelve months beginning on May 1, 1909; and the sum of one thousand dollars for the twelve months beginning on May 1, 1910, and for each succeeding term of twelve months beginning on the first day of May in each and every year thereafter. But any person, co-partnership or corporation (other than brewers, who as hereinbefore stated, require no license), may be licensed to conduct a bottling business by selling fermented liquors only, and in quantities or packages not less than twelve pint bottles, by applying direct to the Clerk of the Court of Common Pleas and paying him the sum of eighty dollars for the twelve months beginning on May 1, 1908; the sum of one hundred and twenty dollars for the twelve months beginning on May 1, 1909, and the sum of one hundred and sixty dollars for the twelve months beginning on May 1, 1910, and for each succeeding term of twelve months, beginning on the first day of May in each and every year thereafter. Wholesale druggists shall be entitled to receive a license as such, to sell under the same conditions as above stated with respect to distillers, brewers and wholesale dealers or jobbers, other than wholesale druggists, and not otherwise, upon applying directly to the Clerk of the Court of Common Pleas and paying to him the sum of two hundred and fifty dollars. But no such wholesale druggist's

license to sell wines, spirituous or fermented liquors shall be given to any applicant who, or whose concern, generally keeps on hand, or, in the case of application for the first time, expects to generally keep on hand at the principal season of sale, an amount of stock of wine, spirituous or fermented liquors in excess of five per centum of the total amount of stock of goods, wares and merchandise generally kept on hand by him, or the said concern, at the principal season of sale, and every applicant for such wholesale druggist's license shall, in addition to the statement on oath now required by law of applicants for trader's licenses as to their total stock of goods, wares and merchandise, state to the clerk of the Court of Common Pleas on oath to be administered by the clerk, the amount of said applicant's stock of wines, spirituous or fermented liquors generally kept on hand by him, or the concern in which he is engaged, at the principal season of sale, or, if said applicant shall not have previously engaged in such trade or business, the amount of such stock he expects to keep as aforesaid. Any person required by this section to take out a license, who shall sell or offer for sale any intoxicating liquors without first having procured such license, and any person who shall violate any of the provisions of this section as to the manner or quantity in which he shall sell or offer for sale such liquors, whether he shall be required to take out a license or not, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not less than two hundred and fifty dollars, nor more than five hundred dollars, in the discretion of the court; no license under this section shall be issued for a longer period than one year, if issued for a shorter period, the licensee shall pay for every month for which his license is to run, one-twelfth of the annual charge for such license, and all such licenses shall expire on the first day of May succeeding their issue; the whole of the money received by the Clerk of the Court of Common Pleas for the licenses aforesaid shall be paid over quarterly by said Clerk of the Court of Common Pleas to the State, as now provided by law, and when so paid over the Comptroller of the Treasury shall draw his warrant upon the treasurer in favor of the Mayor and City Council of Baltimore for three-fourths thereof, to be applied to the general use of said city.

The license fee of \$160, under section 688 as amended by Chapter 196 (Acts 1908) does not apply to a dealer who pays a brewery company to bottle for him beer which he purchased from the brewery. The statute applies where the licensee conducts a bottling business of his own and sells only fermented liquors which he bottles himself.

1894, ch. 86. P. L. L., (1888) Art. 4, sec. 653W. 1906, ch. 278.

**689.** No person shall receive a "hotel license," allowing the sale of intoxicating liquors at a hotel or ordinary, unless he shall present to the Clerk of the Court of Common Pleas a notification, as provided for in section 678 of this Article, wherein the decision of the Board of Liquor License Commissioners to grant a "hotel license," to the applicant, is plainly expressed nor until such applicant, in addition to paying the sum prescribed in this sub-division of this Article, shall have also paid for and received a license to keep a hotel or ordinary, as now provided by law.

*As to license for ordinary, see, note to section 674, ante, and Blackburn v. Livingstone, Daily Record, Jan. 15, 1900.*

1894, ch. 86. 1900, ch. 278. P. L. L., (1888) Art. 4, sec. 653X.

**690.** Any holder of a license to sell intoxicating liquors at retail, by the drink or otherwise, may be permitted by said Board, in their discretion, to sell or assign said license to another person, to be used at the same or another place of business, or to transfer his said license to another place of business; *provided*, that the fitness and propriety of said intended purchaser or assignee, and of said intended new place of business shall be first approved by said Board upon due application therefor, recommendation by qualified voters, advertisement of same in newspapers, etc., as in case of an original application for such license. Such sale or assignment or transfer when granted by said Board shall be endorsed upon the license by the Clerk of the Court of Common Pleas, who shall be entitled to receive a fee of fifty cents therefor, and the same shall then take effect. And whenever the said Board may be satisfied that any license has been lost or destroyed or that any licensee has transferred or assigned his license to another person, and the said transfer or assignment has been duly approved by the Board, in the manner above provided for, and the original licensee withholds said license from the person or persons to whom he has assigned or transferred the same, and refuses to deliver or surrender said license, the said Board shall have the power to revoke and cancel said original license and to issue a duplicate license in lieu thereof to such transferee upon the payment of the aforesaid fee of fifty cents, without any additional license fee. And if any license shall be in course of transfer for the same place of business, the Board shall have the power in its discretion to issue a permit to the owner or transferee of such license to conduct business thereunder

until a duplicate license can be issued or said transfer duly effected, and the Clerk of the Court of Common Pleas shall endorse upon such duplicate license the word "Duplicate," together with the names of the original licensee, as well as that of the transferee to whom such duplicate is granted, and in the settlement of his accounts with the Comptroller and Treasurer of the State of Maryland, the said Clerk of the Court of Common Pleas shall be allowed for such duplicate license.

1908, ch. 197.

690A. In addition to the powers conferred by section 690 of this Article, any holder of a license to sell intoxicating liquors at retail, by the drink or otherwise, may assign, hypothecate or pledge said license to any person, firm, association or corporation as security for the repayment of any debt or the performance of any obligation and the instrument so assigning, hypothecating or pledging said license shall, upon the application of the person, firm, association or corporation to whom the same shall be made, be recorded by said Board as provided in section 669 of this Article; and whenever it shall be made to appear to said Board upon petition duly verified by affidavit that default has occurred in any of the conditions set forth in said instrument, hypothecation or pledge, and the licensee refuses to deliver the license to the party thereby entitled to same, the said board shall have power, after such hearing as it may deem advisable, to revoke the original license and issue a duplicate license in lieu thereof, and upon so receiving said duplicate the said assignee or pledgee shall have all the rights and privileges conferred upon holders of licenses by the provisions of this Article; provided, however, that nothing in this section contained shall prevent any licensee who shall have assigned, hypothecated or pledged a license under the provisions of this section from prosecuting the business for which said license was granted until the same shall have been revoked by said Board under the provisions of this section; and provided, further, that nothing in this Article contained shall prevent the issuing of duplicate licenses under the provisions of this section to any person or corporation whatsoever; provided, also, that no license thus assigned, hypothecated or pledged, nor any duplicate license thus issued, shall be used or disposed of by any transferee or assignee except for re-hypothecation, cancellation or redemption without complying with provisions of Article 690 of this Act.

1908, ch. 197.

**690B.** Any holder of a license to sell intoxicating liquors at retail, by the drink or otherwise, against whom no indictment is pending for the violation of the liquor laws during the year for which said license was granted, and who shall not have been convicted for any such violation of said liquor laws during the said year for which the said license was issued, who shall cease to traffic in liquors during the term for which such license was issued, and who shall surrender such license to the Board of Liquor License Commissioners, and who shall at the same time file with the said Board of Liquor License Commissioners a petition in such general form as the Board may prescribe, duly sworn to before a notary public or justice of the peace, asking to have the license marked "cancelled," shall be entitled to have the amount paid for such license refunded pro rata for the unexpired portion of the term for which such license was granted, less ten dollars, provided that no refund shall be allowed or paid upon the surrender of such license, unless the same shall have at least one full calendar month yet to run. And upon the surrender of said license and the filing of said petition the said Board of Liquor License Commissioners shall thereupon compute the amount of refund then due on said license for the unexpired term thereof, less ten dollars, and shall execute duplicate vouchers therefor showing the name of the person to whom the original license was issued, the number of said license, the date when issued, the amount paid therefor, and the date when surrendered for cancellation, together with the amount of refund due thereon at such date as computed by them, the name of the person entitled to receive the refund and a warrant to the clerk of the Court of Common Pleas directing him to pay said refund as set forth in said vouchers, to the person so entitled, and one of said vouchers the said Board shall deliver to the person entitled thereto, together with said warrant on the Clerk of said Court of Common Pleas, and the other of said vouchers it shall immediately transmit, together with the surrendered license, to the said Clerk of the said Court of Common Pleas, and the said Clerk of the said Court of Common Pleas upon the presentation and surrender to him of the said voucher and warrant given to the said petitioner, shall pay to him or his personal representatives or assigns the amount called for by such vouchers and warrant, out of such funds from the proceeds of liquor licenses as may be in his hands as clerk of said court at the time, or if insufficient funds are in his hands at the time of presentation of such warrant, then out of the first funds from

the proceeds of liquor licenses that come into his hands, and in his next quarterly statement and accounting to the State of Maryland he shall be entitled to full credit for the amount thus paid; such warrants to be paid in the order in which they are issued.

1894, ch. 257. P. L. L. (1888) Art. 4, sec. 653PL.

**691.** Every licensed dealer to whom the Board of Police Commissioners for the City of Baltimore shall issue a permit to sell intoxicating liquors at places of entertainment, as authorized by section 682 of this Article shall pay the said Board of Police Commissioners one dollar for said permit, the money so paid to go into the special fund of said Board.

### MOVING PICTURE MACHINE OPERATORS.

1910, ch. 693.

**691a.** That a new article, to be known as "Moving Picture Machine Operators," and to be numbered as Article . . . , be and the same is hereby added to the Code of Public Local Laws, whose provisions shall be as follows:

1910, ch. 693. 1912, ch. 814.

**691b.** That the term "Moving Picture Machine Operator," as used in this Act, shall be defined as and including any and all persons engaged in the operation of moving picture machines. A license of moving picture machine operator issued in accordance with the provisions of this Act shall entitle any such person so licensed to operate any moving picture machine.

1910, ch. 693. 1912, ch. 814.

**691c.** That the Governor shall biennially appoint in and for Baltimore City three persons: one from the Board of Fire Underwriters' Association, one licensed moving picture machine operator, one master electrician, to represent the Building Inspector's Office of Baltimore City; all of whom have had not less than three years' experience at the business and who have resided in Baltimore City, State of Maryland, for a period of not less than two years next preceding their appointment, who shall be known as the Board of Examining Moving Picture Machine Operators. The parties so appointed shall make oath before a justice of the peace that they will faithfully perform the duties of their office, and shall give bond in the sum of five hundred dollars, to be approved by the Judge of the Superior Court of Baltimore City.

1910, ch. 693. 1912, ch. 814.

**691d.** That all persons who, at the time of the enactment of this Act, are engaged in the business of a moving picture machine operator in the City of Baltimore, as described in section 2 of this Act, shall within sixty days after the first day of May, 1910, comply with all the provisions of this Act, otherwise they shall be guilty of a misdemeanor, and upon conviction, before a police justice or in the Criminal Court of Baltimore City, be fined a sum not less than five dollars, nor more than twenty-five dollars, for each day or fraction thereof that they shall pursue the business of moving picture machine operator in the City of Baltimore; and if said fine is not paid, shall be subject to imprisonment for thirty days or both at the discretion of the judge.

1910, ch. 693. 1912, ch. 814.

**691e.** That if any such person desires to engage or continue in said business of moving picture machine operator, after the passage of this Act, he shall apply to the Board provided for in section 3 of this Act, for a license and submit to an examination as to his qualification before said Board; and, if found proficient by said Board, they shall issue a license, otherwise they shall refuse to grant a license; if the said Board shall find, after due examination, that the said applicant for a license possesses a reasonable knowledge of the moving picture machine operator business and electricity, as pertains to the operation and management of moving picture machine, then the said Board shall, upon payment of the fee herein provided for, issue to said applicant a license for a term of not more than one year, and shall keep a record of all so issued; and no person shall be granted a license who has not reached the age of 21 years, and makes oath to such fact, and has had at least one year's experience under a licensed operator or two years' experience in operating a moving picture machine; provided that each applicant for the license shall pay to the said Board a license fee of ten dollars (\$10.00). Said license to be good for a term of one year, and at the expiration of said term a renewal shall be issued by said Board upon the payment of a fee of five dollars (\$5.00) for said renewal. No person granted a license under the provisions of this Act shall operate a moving picture machine after the expiration of said license or after said license shall have been suspended or revoked as herein provided, unless the said license or renewal of same shall have been granted as herein provided.



1910, ch. 693. 1912, ch. 814.

**691f.** That any person taking a false oath in reference to his age or time that he has operated under a licensed operator, or length of time that he has operated a moving picture machine, shall be deemed guilty of perjury, and upon conviction in the Criminal Court of Baltimore City be fined not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00). Any person failing to pass an examination within six months from the date of last examination. The Board shall have power to investigate the cause of any fire in a moving picture parlor or theatre, and to revoke the operator's license upon satisfactory proof that the fire was caused by the operator's negligence or carelessness. The Board, on examining any applicant hereunder shall give him a thorough test as to his practical work, together with such verbal examination, as the Board may deem necessary. The Board shall have the power to enter any operating room for the purpose of inspection at any time, and shall also have the power at any time to re-examine any operator upon due notice to him, and upon sufficient cause shown suspend or entirely revoke a license theretofore granted.

1910, ch. 693. 1912, ch. 814.

**691g.** That any manager or owner of a moving picture parlor or theatre who employs a moving picture machine operator, as in this Act defined, without said operator having first procured a license from said Board in the manner herein required, shall be deemed guilty of a misdemeanor, and upon conviction before a police justice or in the Criminal Court of Baltimore City be fined not less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00) for each and every offense.

1910, ch. 693. 1912, ch. 814.

**691h.** That the said Board shall have full power to suspend for such period as may seem proper or revoke entirely the license of any moving picture machine operator, who is negligent or operates any moving picture machine in a dangerous or improper manner, so as to be dangerous to the safety of life or property, provided, that no license or renewal thereof shall be suspended or revoked unless an opportunity is afforded the party charged to be present in person, or by counsel, and make any defence he may have; no license or renewal of same shall be assignable or transferable, and all renewals shall be kept of record as in the case of original license.

1910, ch. 633.

**691i.** The said Board of Examiners shall be paid a per diem of five dollars (\$5.00) for each day actually in session, and shall pay the expense of maintaining their office out of the proceeds derived from licenses and renewals, including office rent, salary, etc.; and no money shall be paid from the State Treasury for any expense of this Board; any surplus which may exist at the end of the term of the said Board shall be returned to the Treasurer of the State; the said Board shall meet as often as necessary for the proper transaction of its business, and shall give at least five days' notice in some daily newspaper published in Baltimore City of the time and place of meeting for the purpose of examining applicants; said Board shall meet once in each month; and all licenses and renewals of licenses shall expire on the first day of May of each year.

#### PAWNBROKERS.

1888, ch. 104. P. L. L. (1888) Art. 4, sec. 655.

**692.** All pawnbrokers in the City of Baltimore shall keep or caused to be kept, in a suitable book or books to be provided by them for that purpose, an accurate account showing the date of each deposit made with them in the course of their business, and of each purchase made by them in the course of their business, of any and all personal property, so described as to identify the said personal property so deposited or sold; and showing also the sum of money advanced thereon or paid therefor, the time for which any such deposit was agreed to be kept, and the name of the depositor or seller of such personal property, and his place of business or abode; and such entries shall be made by such pawnbrokers immediately upon the making of any such transaction; such book, and the personal properties so deposited or purchased, shall be subject at all times to the inspection of such agent or officer as may be designated for that purpose by the Mayor and City Council of Baltimore, and also to the inspection of the Marshal of Police for the City of Baltimore, and of such officer as he may designate for that purpose; and all pawnbrokers who shall omit, neglect or refuse to provide and keep such book, or to enter therein forthwith as aforesaid an account of all deposits made with and purchases made by them, as aforesaid, with all the particulars thereof, as hereinbefore required, or who shall enter incorrectly in such book any such account of deposits made with them, or purchases made by them, as aforesaid, or who shall refuse to exhibit any of such books and properties so deposited or purchased, if in their pos-

session or under their control upon demand of any of the officers empowered or authorized as aforesaid to make such inspection, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than twenty dollars, or an imprisonment of not less than thirty days, or to both fine and imprisonment in the discretion of the court.

1880, ch. 104. P. L. L. (1888) Art. 4, sec. 656.

**693.** Before any person or body corporate shall transact the business of pawnbrokers in the City of Baltimore, he or it shall first obtain from the Clerk of the Court of Common Pleas in said city, a State's license authorizing him or it to carry on such business in the said city, for which said license he or it shall pay the sum of five hundred dollars, and in addition to this, he or it shall file with said clerk a bond to the State of Maryland, in the sum of ten thousand dollars, to be approved by said clerk, for the faithful performance of the requirements of this sub-division of this Article; and any pawnbroker who shall violate this section by failure to file such bond, or to obtain the license as aforesaid, though continuing to transact the business of a pawnbroker, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be fined the sum of five hundred dollars, or be imprisoned in the City Jail for the term of six months, or both, in the discretion of the court.

#### MERCHANDISE BROKERS.

1892, ch. 561. P. L. L. (1888) Art. 4, sec. 657A. P. G. L. (1888) Art. 56, sec. 18.

**694.** Any person or partnership applying for the same, and paying the sum of eighteen dollars and seventy-five cents for each individual or representative of such firm or partnership, may obtain a license for carrying on the business of grain broker, coffee broker, cotton broker, sugar broker, or merchandise broker.

#### REAL ESTATE BROKERS.

1888, ch. 495. P. L. L. (1888) Art. 4, sec. 658.

**695.** Any person, co-partnership or firm applying for the same, and paying the sum of money herein provided, may obtain a license for carrying on the business of real estate broker in the City of Baltimore; provided, that the names of each and every person comprising any co-partnership or firm applying for such license shall be inserted in said license; *provided*, that the sum of money to be paid therefor as aforesaid shall be twenty-five dollars for the first two names inserted in said

license, and twenty-five dollars additional for each and every name above two inserted therein.

*Coates v. Locust Point Co.*, 102 Md. 291.

*In regard to the construction* of sections 695 to 700, inclusive, of the Charter, *see*, *Walker v. Baldwin and Frick et al.*, 103 Md. 352, in which the Court of Appeals upheld the validity of a contract for commissions made by an unlicensed real estate broker on the ground that the license required to be obtained under the provisions of the Charter is a revenue measure, and failure to obtain same does not invalidate the contract but exposes such unlicensed broker to the penalty provided by the Act. This affirms decision *in re* *Coates v. Locust Point Company*, decided at the January 1906 term of the Court of Appeals, 102 Md. 291.

*Real Estate Brokers.*—For decisions in relation to powers of such agents to act for principal in certain cases. *see*, *Newcomer v. Brooks*, Daily Record, October 24, 1901. *Becker v. Matthai*, Daily Record, January 3, 1902. *Crenshaw v. Baltimore Chrome Works*, Daily Record, August 31, 1903.

*The Proceeds of Property* in excess of specific selling price authorized, belong to the owner of the property and not to the broker, notwithstanding usage to the contrary.—*Newcomer v. Brooks*, *supra*.

1888, ch. 495. P. L. L., (1888) Art. 4, sec. 659.

**696.** Any person, co-partnership or firm who shall carry on the business of real estate broker, or shall undertake to act as such real estate broker by public advertisement, sign or otherwise, without such license first obtained, or who shall use or attempt to use the license of another with intent to evade the provisions of sections 695 to 699 of this Article, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be subject to and pay a fine or penalty of not less than two hundred dollars nor more than five hundred dollars for each offence; one-half thereof for the use of the State, and the other half thereof to the person or corporation that shall first prefer before the Grand Jury the charge against such offender; and any person, co-partnership or firm who shall directly or indirectly act as a real estate broker, or shall undertake the buying or selling of ground rents or other real estate, or of chattels real, or the leasing of real estate or chattels real, or the negotiation or sale of mortgage loans on real estate or chattels real, or the collection of rents for others, with a view to reward or compensation for such undertaking, shall be deemed to be carrying on the business of real estate broker within the meaning of said sections, and be subject to the fines or penalties herein prescribed.

*Coates v. Locust Point Co.*, 102 Md. 291. *Walker v. Baldwin & Frick*, 103 Md. 352.

1888, ch. 495. P. L. L., (1888) Art. 4, sec. 660.

**697.** If any person who has obtained such license shall die or shall move from and cease to use and exercise the business of real estate broker in the City of Baltimore, before the expiration of the term in said license specified, the benefit of said license for the unexpired term shall issue to and be continued in his legal representative or assignee, upon application to the proper clerk for that purpose, accompanied by the oath by the party applying, made before a judge of a court of record and endorsed on said license, that the person to whom said license was originally granted is deceased, or has removed from and ceased to use or exercise the said business in the said city.

1888, ch. 495. P. L. L., (1888) Art. 4, sec. 661.

**698.** Upon said application and affidavit the clerk shall, by his endorsement on said license, authorize such legal representative or assignee to use or exercise the business of such real estate broker in said city for the unexpired term in said license named.

1888, ch. 495. P. L. L., (1888) Art. 4, sec. 662.

**699.** No person, co-partnership, association or firm, legal representative or assignee, shall use or occupy at the same time more than one office or place of business for the transaction of his or their business as such real estate broker, in said city, unless a separate license be procured for each and every such office or place of business, or for each and every branch office where the business of said person, co-partnership, association or firm as such real estate broker in said city is carried on or located; and any person who shall violate the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be subject to the same fine and penalties as are imposed by the provisions of section 696 of this Article: but nothing herein shall be so construed as to prevent any such person, co-partnership, association or firm, legal representative or assignee, from holding at the same time with the license as real estate broker in said city, provided for by section 695 of this Article, a license or licenses for any other kinds of brokerage business permitted by the laws of this State upon paying to the clerk the several sums by law prescribed for such license or licenses.

1888, ch. 495. P. L. L., (1888) Art. 4, sec. 663.

**700.** The five preceding sections shall not apply to transactions of attorneys at law with their clients; but their provisions

shall nevertheless apply to all other persons who make a business of brokerage or agency for others in transactions in real estate, mortgage or chattels real, by solicitation, advertisement, sign or otherwise, with a view to reward or compensation for such business, whether the same be conducted under the name of agent, property agent, broker, negotiator, financier, dealer or any other name so as to evade the provisions of said sections.

### STEVEDORES.

1898, ch. 505. P. L. L., (1888) Art. 4, sec. 668A.

**700a.** Before any person or body corporate shall transact the business of a master stevedore in the City of Baltimore, he or it shall first obtain from the Clerk of the Court of Common Pleas in said city a State's license, authorizing him or it to carry on said business in the said city, for which said license he or it shall pay the sum of twenty-five dollars, and any stevedore who shall violate this section by failure to obtain the license as aforesaid, though continuing to transact the business of a stevedore, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof in the Criminal Court of Baltimore City, be fined the sum of one hundred dollars, or be imprisoned in the City Jail for the term not exceeding six months, or both, in the discretion of the court.

*Steenken v. State*, 88 Md. 708.

The Act 1898, ch. 505, was construed by the Court *in re Steenken v. State*, 88 Md. 708, and the provisions relating to the bond required under the terms of said Act were declared unconstitutional and void, but the validity of the remaining provisions of the Act upheld. The act as embodied in section 700a has been modified to conform to the decision of the Court.

### DUTY OF SHERIFF AND CLERK OF COURT.

1866, ch. 151. 1888, ch. 372. P. L. L., (1888) Art. 4, sec. 669.

**701.** 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 persons or bodies corporate or politic in each ward of the City of Baltimore who shall be exercising, 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 this sub-division of this Article, 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 receive fifty cents for every license obtained by any person whose name shall be contained in the list 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.

1894, ch. 113. P. L. L. (1888) Art. 4, sec. 669A.

**702.** There shall be entered in writing by the Clerk of the Court of Common Pleas upon the face of all licenses obtained by individuals, firms or corporations to conduct business as trades in the City of Baltimore, the name of the street and number of the house or building, or if there be no number, a full designation of the location of said house or building for which a license is applied for; and each license shall only authorize the transaction of business in one house or building, unless the individual, firm or corporation shall occupy more than one adjoining houses or buildings, and said houses or buildings have open, direct, internal communication with each other; in that case one license will cover transactions in said adjoining houses or buildings so arranged and occupied; provided, always, that any firm, individual or corporation may obtain any number of licenses to conduct business in any number of separate places of business in said city, upon paying for each license a sum graded according to the amount of stock or merchandise generally kept on hand or proposed to be kept on hand at the principal season of sale in said respective places of business, according to the Code of Public General Laws, Article 56, sections 40 to 52, or such amendments as may hereafter be added thereto.

Rohr v. Gray, 80 Md. 274.

#### MARINERS AND CHARITABLE MARINE SOCIETY OF BALTIMORE.

P. L. L., (1860) Art. 4, sec. 630. P. L. L., (1888) Art. 4, sec. 670.

**703.** 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 cost of administration, shall devolve on

and become the property of the Charitable Marine Society of Baltimore.

### MARKETS.

P. L. L., (1860) Art. 4, sec. 631. P. L. L., (1888) Art 4, sec 672.

**704.** If any person shall buy, or cause to be bought, any kind of vegetables, dead meat, poultry, butter, cheese, tallow, eggs or fish, in any of the markets of said city, or within ten miles thereof, with an intent to sell the same again in such markets, or city, or within two miles thereof, he shall for the first offence forfeit the article, or the value thereof; for the second offence, he shall forfeit the article and be fined four dollars, and for every other offence forfeit fifteen dollars, to be recovered in a summary way before a Justice of the Peace: provided, that the purchasing of pork, beef and fish, by the barrel or other package, butter in firkins, or other packages not less than fifty pounds, bacon or cheese by the quantity, by any merchant or shop keeper, and selling the same again in his store or shop, shall not be deemed or taken as an offence against this section.

*See, Pfeffering v. Baltimore City, 88 Md. 475, in relation to the powers of the city to regulate and control markets.*

P. L. L., (1860) Art. 4, sec. 633. P. L. L., (1888) Art. 4, sec. 673.

**705.** Whenever any person shall be found exposing for sale any of the articles enumerated in the 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 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, or if he cannot make it appear to the satisfaction of the Justice that he raised or made the articles offered by him 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 preceding section, and the fines and forfeitures shall be recovered in a summary way before the said Justice.

P. L. L., (1860) Art. 4, sec. 634. P. L. L., (1888) Art. 4, sec. 674.

**706.** 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.

P. L. L., (1860) Art. 4, sec. 636. P. L. L., (1888) Art. 4, sec. 676.

**707.** 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 his own growth, produce or manufacture, or as the agent of the grower, producer or manufacturer of the same, unless such person shall occupy some place or stand in some of said market-houses; provided such person or agent be not a resident of said city.

P. L. L., (1860) Art. 4, sec. 637. P. L. L., (1888) Art. 4, sec. 677.

**708.** If any clerk of the market, or any other person or officer appointed by or under the provisions of this Article, shall demand, receive or collect any tax or other charges from any person attending the markets of said city as provided in the preceding section, who shall be standing in the open streets, and who does 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.

P. L. L., (1860) Art. 4, sec. 640. P. L. L., (1888) Art. 4, sec. 680.

**709.** The city may agree with the owners of any land or other property which it may deem 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 of Baltimore, may issue his warrant to the Sheriff of said city, commanding him to summon from the said city a jury of twenty freeholders, inhabitants of said city, not related to the owners or persons interested in the real estate or other property, to meet on the premises on some certain day to be named in said warrant, of which said warrant and the day therein named for the meeting of the jury, five days' notice shall be given previous to such day by the Mayor and City Council of Baltimore, to every owner or person interested, and left at his place of abode.

P. L. L., (1860) Art. 4, sec. 641. P. L. L., (1888) Art. 4, sec. 681.

**710.** 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.

P. L. L., (1860) Art. 4, sec. 642. P. L. L., (1888) Art. 4, sec. 682.

**711.** If such owner, guardian, trustee, committee or husband resides 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.

P. L. L., (1860) Art. 4, sec. 643. P. L. L., (1888) Art. 4, sec. 683.

**712.** 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 of Baltimore, 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.

P. L. L., (1860) Art. 4, sec. 644. P. L. L., (1888) Art. 4, sec. 684.

**713.** The Sheriff or his deputy shall, before the said jury proceed to act, administer to each of the jurors 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.

P. L. L., (1860) Art. 4, sec. 645. P. L. L., (1888) Art. 4, sec. 685.

**714.** The jury so qualified shall inquire into, assess and ascertain the sum of money to be paid by the Mayor and City Council of Baltimore, 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.

P. L. L., (1860) Art. 4, sec. 646. P. L. L., (1888) Art. 4, sec. 686.

**715.** The jury shall reduce their inquisition to writing, and shall sign and seal the same, and it shall then be returned by the Sheriff to the Clerk of the Superior Court of said city, and be by such clerk filed in his office, and shall be confirmed by said court at its next session if no sufficient cause to the contrary be shown, and when confirmed shall be recorded by the said clerk at the expense of the Mayor and City Council of Baltimore.

P. L. L., (1860) Art. 4, sec. 647. P. L. L., (1888) Art. 4, sec. 687.

**716.** If said inquisition be set aside by the said court, the court shall direct another inquisition to be taken in the manner hereinafter directed.

P. L. L., (1860) Art. 4, sec. 648. P. L. L., (1888) Art. 4, sec. 688.

**717.** 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 of Baltimore; and such valuation, when paid or tendered to the owner of said property or his legal representatives, shall entitle the Mayor and City Council of Baltimore 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 their legal representatives.

P. L. L., (1860) Art. 4, sec. 649. P. L. L., (1888) Art. 4, sec. 689.

**718.** If the twenty jurors summoned as hereinbefore directed shall not appear at the time and place mentioned, 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.

P. L. L., (1888) Art. 4, sec. 650. P. L. L., (1888) Art. 4, sec. 690.

**719.** 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 of Baltimore, 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.

## MORTGAGES.

1833, ch. 181. 1836, ch. 249. P. L. L., (1860) Art. 4, sec. 782.

P. L. L., (1888) Art. 4, sec. 692. 1890, ch. 197.

**720.** In all cases of conveyances of lands or hereditaments or of chattels real, or goods and chattels personal, situate in the said city, wherein the mortgagor shall declare his assent to the passing of a decree for the sale of the same, it shall be lawful for the mortgagee or his assigns at any time after filing the

same to be recorded, to submit to either of the Circuit Courts of Baltimore City the said conveyances or copies thereof, under seal of the Superior Court; and the Circuit Court to which the same is so submitted, 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 may 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.

Eichelberger v. Harrison, 3 Md. Ch. 39. Cronise v. Clark, 4 Md. Ch. 403. Williams v. Williams, 7 Gill 302. Ing v. Cromwell, 4 Md. 31. Gatchell v. Presttman, 5 Md. 161. Kauffman v. Walker, 9 Md. 229. Robertson v. Amer. Homestead Association, 10 Md. 397. Kenly v. Wierman, 18 Md. 302. Black v. Carroll, 24 Md. 252. Franz v. Teutonia Bldg. Ass'n, 24 Md. 269. Brooks v. Hayes, 24 Md. 518. Seebold v. Lockner, 30 Md. 133. Tome v. Merchants and Mechanics Bldg. Ass'n, 34 Md. 12. Heuisler v. Nikum, 38 Md. 270. Shaefer v. Amicable P. L. & L. Co., 47 Md. 126. Kerchner v. Kempton, 47 Md. 568. Gustave Adolph Bldg. Ass'n v. Kratz, 55 Md. 394. Abrahams v. Tappe, 60 Md. 317. Trayhern v. Colburn, 66 Md. 280. Bernstein v. Hobelman, 70 Md. 29. Chilton v. Brooks, 71 Md. 445. Roberts v. Loyola Bldg. Ass'n 74 Md. 1. Haskie v. James, 75 Md. 568. Hughes v. Riggs, 84 Md. 505. Connaughton v. Bernard, 84 Md. 589. Knapp v. Anderson, 89 Md. 189.

*Mortgages; Powers of Circuit Court No. 2.* Circuit Court No. 2 of Baltimore City has power to pass an *ex parte* decree authorized by a mortgage executed prior to the establishment of said court. Miller v. Gunkle, Daily Record, April 2, 1892.

*Powers of Sale and Assent to Decree.* The power of sale and assent to the passage of a decree contained in a mortgage, is a power coupled with an interest. Easter v. Easter, Daily Record, January 23, 1897.

1833, ch. 181. 1880, ch. 216. P. L. L. (1888) Art. 4, sec. 693.

**721.** The trustee or trustees so appointed, after having given 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, administrators or assigns, if the mortgage claim shall have been assigned before such sale, or their duly constituted agent or attorney, after the arrival of the period aforesaid, verifying by their oath a statement of the amount of said mortgage claim remaining due, before the Judge of said court or before any Justice of the Peace of this State, the official character of any Justice of the Peace for any county being certified under his official seal by the Clerk of the Circuit Court for the county where the affidavit is made, where the affidavit is made outside of the City of Baltimore, or before

any person outside of this State authorized to take acknowledgments of deeds; and such statement shall be filed in said court.

Hays v. Dorsey, 5 Md. 99. Ziegler v. King, 9 Md. 330. White v. Malcolm, 15 Md. 529. Brooks v. Hayes, 24 Md. 507. Md. Perm. Bldg. Society v. Smith, 41 Md. 516. Hughes v. Riggs, 84 Md. 505. McCauseland v. Humane, etc. Society, 95 Md. 744.

P. L. L., (1860) Art. 4, sec. 784. P. L. L., (1888) Art. 4, sec. 694.

**722.** 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.

Gatchell v. Pressman, 5 Md. 161. McDowell v. Goldsmith, 6 Md. 319. Monumental B. Ass'n No. 2, v. Herman, 33 Md. 128. Morrill v. Gelston's Lessee, 34 Md. 413. Carroll v. Kerschner, 47 Md. 262. Rau v. Robertson, 58 Md. 506. White v. McClellan, 62 Md. 347. Albert v. Hamilton, 76 Md. 304.

P. L. L., (1860) Art. 4, sec. 785. P. L. L., (1888) Art. 4, sec. 695.

**723.** 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.

Hardy v. Smith, 41 Md. 1. Haskie v. James, 75 Md. 568. Albert v. Hamilton, 76 Md. 309.

P. L. L., (1860) Art. 4, sec. 786. P. L. L., (1888) Art. 4, sec. 696.

**724.** 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.

Robertson v. Homestead Bldg. Ass'n, 10 Md. 407. Black v. Carroll, 24 Md. 251. Heisler v. Nickum, 38 Md. 273. Equitable M. L. I. Ass'n v. Becker, 45 Md. 632. Bernstein v. Hobelman, 70 Md. 29. Roberts v. Loyola P. B. A., 74 Md. 1. Haskie v. James, 75 Md. 568. Albert v. Hamilton, 76 Md. 304. Richardson v. Owens, 86 Md. 664.

The cases cited under section 724, mainly relate to proceedings instituted to set aside sales under this sub-division of this Article.

P. L. L., (1860) Art. 4, sec. 787. P. L. L., (1888) Art. 4, sec. 697.

**725.** 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.

Equitable Land Impmt. Ass'n v. Becker, 45 Md. 634.

1833, ch. 181. P. L. L., (1860) Art. 4, sec. 788. P. L. L., (1888) Art. 4, sec. 698.

**726.** 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.

1833, ch. 181. P. L. L., (1860) Art. 4, sec. 789. P. L. L., (1888) Art. 4, sec. 699.

**727.** Any entry on the docket of said court by the person entitled to assign the said mortgage claim, of the use and benefit of said decrees, shall have the same effect as assignments and conveyances of the said mortgage interests, to have effect and precedence from the time of their respective entries; and the said entries shall not be made without an order or direction in writing, to be acknowledged before the Judge of said court, or a Justice of the Peace, by the persons purporting to sign the same, and filed and recorded by said clerk.

1833, ch. 181. P. L. L., (1860) Art. 4, sec. 790. P. L. L., (1888) Art. 4, sec. 700.

**728.** 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 mortgage, and all liens thereunder, as any conveyances by the parties interested in such claims, and the holders of the legal estate and interests 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 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 entries shall refer to such orders or directions, and the names of the persons aforesaid; and said order and directions shall be recorded in said court with said decrees.

1833, ch. 181. P. L. L., (1860) Art. 4, sec. 791. P. L. L., (1888) Art. 4, sec. 701.

**729.** The said court may, at its 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, to, and distributed by, said court, in the manner usual in cases of sales under decrees of said court.

P. L. L. (1860) Art. 4, sec. 792. P. L. L. (1888) Art. 4, sec. 702.

**730.** 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 Article 66 of the Public General Laws, title "Mortgages," but notices of sale under such power shall be published in two daily newspapers in said city for the period required by law.

*Chilton v. Brooks*, 71 Md. 445, 453. *Roberts v. Loyola*, P. B. Ass'n, 74 Md. 3, 4. *Knapp v. Anderson*, 89 Md. 190.

*Advertisement.* Requisites of a valid advertisement.—*Kaufman v. Walker*, 9 Md. 229. *White v. Malcolm*, 15 Md. 529. *Reese v. Peter*, 33 Md. 120. *Stevens v. Bond*, 44 Md. 506. *Wareheim v. Building Ass'n*, 44 Md. 512. *Dircks v. Logsdon*, 59 Md. 173. Mistakes in advertisement; effect of.—*Brooks v. Hays*, 24 Md. 507. *Patterson v. Miller*, 52 Md. 388.

*Annexation Act.* Effect of, on power to sell.—*Chilton v. Brooks*, 71 Md. 445. *Roberts v. Loyola* P. B. Ass'n, 74 Md. 3.

*Assignment of Mortgage.* Effect on power of sale.—*Russum v. Wausser*, 53 Md. 92. *Bouldin v. Reynolds*, 58 Md. 491 and *Erb v. Grimes*, 94 Md. 92.

*Auctioneer.* See, "Mis-statement of Auctioneer."

*Audit.* When audit may be dispensed with.—*Korns v. Shaffer*, 27 Md. 83.

*Bond of Foreclosure.*—See, *Cockey v. Coale*, 28 Md. 276 and *Wareheim v. Carroll Bldg. Ass'n*, 44 Md. 512.

*Commissions.* Commissions in mortgage sales are not chargeable against the mortgagor as being embraced in the term "expenses of sale." *Johnson v. Glenn*, 80 Md. 369. Commissions in mortgage sales are a matter of contract.—*Dorsey v. Omo*, 93 Md. 74.

*Debt.* Nature of mortgage debt.—*W. M. R. R. Co. v. Goodwin*, 77 Md. 271.

*Decree.* Effect of void decree.—*Kerchner v. Kempton*, 47 Md. 568.

*Default.* See, "Insurance and Interest."

*Exceptions.* When and by whom exceptions to ratification of sale may be filed.—*Ankum v. Jantziger*, 94 Md. 421. *Bond v. Gray Imp. Co.*, 102 Md. 426.

*Expenses of Sale.* See, "Commissions."

*Inadequacy of Price.* When sufficient ground for setting aside sale under power to sell.—*Harnickell v. Orndorff*, 35 Md. 341. *Horsey v. Hough*, 38 Md. 130. *Condon v. Maynard*, 71 Md. 601. *Carroll v. Hutton*, 91 Md. 379.

*Insurance.* When failure to pay constitutes default.—*Walker v. Cockey*, 38 Md. 75. Right of mortgagee to insurance on mortgaged premises when fire takes place after sale, but before ratification thereof.—*Bowdoin v. Hammond*, 79 Md. 173.

*Interest.* When non-payment of interest constitutes default.—*Mowbray v. Leckie*, 42 Md. 474. Acceptance of interest by mortgagee after

default does not constitute waiver of latter's right to foreclosure.—*Mahoney v. McCubbin*, 52 Md. 357.

*Jurisdiction.* Jurisdiction of court in sales under powers.—*Cockey v. Coale*, 28 Md. 276.

*Misstatements.* Setting aside sale under a power on account of misstatements of auctioneer.—*Schaeffer v. Bond*, 70 Md. 480.

*Mortgage Notes.* When filing of same unnecessary.—*Heidel v. Bladen*, 83 Md. 225.

*Mortgagor.* Effect of death of on power to sell.—*Berry v. Skinner*, 30 Md. 567.

*Notice. Requisites of Valid Notice of Sale.* *White v. Malcolm*, 15 Md. 529. *Dircks v. Logsdon*, 59 Md. 173. *Carroll v. Hutton*, 91 Md. 379. Errors in Notice.—*White v. McClellan*, 62 Md. 347.

*Power to Sell.* The power to sell is a power coupled with an interest.—*Berry v. Skinner*, 30 Md. 567. *Dill v. Satterfield*, 34 Md. 52. *Harnickell v. Orndorff*, 35 Md. 541. *W. M. R. R. Co. v. Goodwin*, 77 Md. 271. *And as such is assignable.*—*Russum v. Wausser*, 53 Md. 92. *Bouldin v. Reynolds*, 58 Md. 491. *Erb v. Grimes*, 94 Md. 92. *Is a power* coupled with an interest when conferred on the mortgagee.—*W. M. R. R. Co. v. Goodwin*, 77 Md. 271. *And not when* conferred on a third party who has no interest in the estate and, does not pass to his personal representatives.—*Barriek v. Horner*, 78 Md. 253.

*Where an Assignment is Made* for the purpose of foreclosure only, the power to sell is not a power coupled with an interest and does not pass to the personal representatives of the assignee, nor can latter exercise same.—*Taylor v. Carroll*, 89 Md. 32.

*The Mortgagee's Power* of sale is not affected by an order of the Orphans' Court directing the mortgagor's executor to sell the mortgaged premises.—*Mish v. Lechluder*, 89 Md. 275.

*Though not Exercisable* by a corporation as assignee, a power of sale may be exercised by the assignee of such corporation.—*Maslin v. Marshall*, 94 Md. 430.

*Ratification of Sale.* Grounds for objection to ratification of sale under power to sell.—*Hubbard v. Jarrell*, 23 Md. 66.

*Sales.* A sale for cash where terms of sale are not stated in mortgage is valid.—*Powell v. Hopkins*, 38 Md. 1. *When a sale in solido* will be set aside.—*Patterson v. Miller*, 52 Md. 388. A power to sell property outside of the county in which it lies cannot be given in a mortgage.—*Webb v. Haeffler*, 53 Md. 187. *No order of Orphans' Court* is required in sales of mortgaged property by executors of assignee of mortgage.—*Chilton v. Brooks*, 71 Md. 453. *Sales where division of land was improper.*—*Carroll v. Hutton*, 91 Md. 379. The discretion of the trustee as to the mode of offering property for sale under power to sell in mortgage must be properly exercised.—*Thomas v. Fewster*, 95 Md. 450. *When sale will be set aside.*—*Kauffman v. Walker*, 9 Md. 229. *Only sufficient* property should be offered for sale to pay the mortgage debt and expenses when the property is divisible in a practical manner.—*Mays v. Lee*, 100 Md. 229. *Sale by assignee of mortgage* under power of sale; duty of such assignee.—*Wicks v. Westcott*, 59 Md. 270.

*Trustee.* A trustee cannot purchase at his own sale.—*Korns v. Shaffer*, 27 Md. 83. *Duty of trustee under power to sell* to all parties.—*Dickerson v. Small*, 64 Md. 395. *Carroll v. Hutton*, 88 Md. 679. *For a full discussion of duties of trustee* in relation to sales of mortgaged property under power of sale. *See, Wicks v. Westcott*, 59 Md. 270.



1833, ch. 181, sec. 3. 1864, ch. 124. P. L. L., (1888) Art. 4, sec. 703.

**731.** 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 mortgagee or one of such assignees, or the executor, or administrator of a deceased assignee, shall file in the court in which the said proceedings are pending, a statement of the amount of the said mortgage claim remaining due, verifying the same by the oath or affirmation of the party filing the same; and the said affidavit or affirmation may be made before any of the persons mentioned in section 721 of this Article, and the same shall be authenticated as provided for in section 721.

Hays v. Dorsey, 5 Md. 99. Gatchell v. Presstman, 5 Md. 161. Black v. Carroll, 24 Md. 252. Brooks v. Hays, 24 Md. 507. Connaughton v. Bernard, 84 Md. 595.

1898, ch. 327.

**731a.** If, upon a sale of the whole mortgaged property by virtue of a decree passed under an assent to the passing of a decree contained in the mortgage under the provisions of section 720 of this Article, the net proceeds of sale, after the cost and expenses allowed by the court are satisfied, shall not suffice to pay the mortgage debt and accrued interest, as the same shall be found and determined by the judgment of the court upon the report of the auditor thereof, the court may, upon the motion of the plaintiff, the mortgagee or his legal or equitable assignee, after due notice, by summons or otherwise, as the court may direct, enter a decree *in personam* against the mortgagor or other party to the suit or proceeding, who is liable for the payment thereof, for the amount of such deficiency; *provided* the mortgagee or his legal or equitable assignee would be entitled to maintain an action at law upon the covenants contained in the mortgage for said residue of said mortgage debt so remaining unpaid and unsatisfied by the proceeds of such sale or sales:

which decree shall have the same effect and be a lien as in a case of a judgment at law, and may be enforced in like manner by a writ of execution in the nature of a writ of *feri facias* by attachment or otherwise.

1864, ch. 124. P. L. L., (1888) Art. 4, sec. 704.

**732.** The provisions of sections 722 to 729, inclusive, of this Article, shall apply to all the proceedings under section 731.

1910, ch. 157.

**732A.** Any affidavit, affirmation or acknowledgment mentioned in the preceding sections of this Article relating to mortgages, or incidental to any proceedings thereunder, may be made before a notary public.

1914, ch. 587.

**732A.** Municipal Liens. The Mayor and City Council of Baltimore may establish a sub-department or bureau where the record of all municipal charges and assessments of every character may be kept, and may provide for the issuance of a certificate stating whether any, and if so what, municipal charges or assessments exist against any particular property, and for making a reasonable charge for such certificate.

### NOTARIES PUBLIC.

1801, ch. 86, sec. 2. 1872, ch. 191. 1880, ch. 21. 1886, ch. 14. 1890, ch. 71. 1892, ch. 373. 1896, ch. 137. 1898, ch. 81. 1898, ch. 123. 1900, ch. 150. 1902, ch. 112. 1902, ch. 321. 1904, ch. 15.

P. G. L., (1860) Art. 67, sec. 1. P. L. L., (1888)

Art. 4. secs. 704A, 704A 1-2.

**733.** The Governor, by and with the consent of the Senate, shall appoint and commission twenty Notaries Public for each of the Legislative Districts of Baltimore City, and twenty Notaries Public at large for said city, to be selected from such districts as the Governor may elect and determine.

As to how far a Notary Public may impeach his certificate, *see*, *Central Bank v. Copeland*, 18 Md. 305. *Matthews v. Dare*, 20 Md. 271. *Highburger v. Stiffler*, 21 Md. 351. *Nicholson v. Snyder*, 97 Md. 415.

1904, ch. 227.

**733A.** In addition to the Notaries Public heretofore authorized and mentioned in section 733 of this Article (as repealed and re-enacted by the Acts of the General Assembly of 1904). the Governor, by and with the advice and consent of the Senate,

shall appoint and commission twenty-five additional Notaries Public at large, to be selected from such ward or wards as the Governor may elect and determine.

1906, ch. 317, sec. 1.

**733Aa.** The Governor, by and with the advice and consent of the Senate, is authorized to appoint twenty Notaries Public for Baltimore City, two of whom may be females, in addition to the number now authorized by law.

1904, ch. 15.

**734.** No person shall be eligible to the office of Notary Public except a citizen of the United States who has resided in the State for two years previous to his appointment; but women otherwise qualified, shall be eligible to said office, provided the number of said women so appointed and commissioned shall not exceed ten in number.

## OYSTERS.

1892, ch. 630. P. L. L., (1888) Art. 4, sec. 704B.

**735.** All oysters in the shell sold in the City of Baltimore shall be measured by a licensed measurer; any person may obtain a license therefor from the Clerk of the Court of Common Pleas by paying therefor the sum of ten dollars and taking an oath before said clerk for the faithful performance of his duty; said license shall hold good for one year; a measurer shall receive for his services one-half cent per bushel, to be paid equally by the buyer and seller; any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction, shall be fined not less than twenty nor more than fifty dollars for each offence, and imprisoned until the fine and costs shall be paid.

## PARKS AND SQUARES.

1876, ch. 344. P. L. L., (1888) Art. 4, sec. 712.

**736.** The Board of Park Commissioners, for the purpose specified in section 96 of this Article, is empowered to form a zoological collection within the limits of any of the parks and squares under its control.

The Act 1906, ch. 58, authorizes the Mayor and City Council of Baltimore to retain as a public reservation or park, the triangular lot of ground at the intersection of Hopkins Place and Baltimore street.

1876, ch. 344. P. L. L. (1888) Art. 4, sec. 713.

**737.** The said Commissioners are authorized to receive subscriptions of money for the purpose of said collection not to exceed in amount one hundred thousand dollars, and to issue certificates of stock therefor, in sums of not less than one hundred dollars, each bearing interest at the rate of six per cent., payable half-yearly out of the income derived from said collection, which certificates shall be signed by a member of said Commissioners appointed by them for the purpose, and the secretary thereof, and have attached thereto a seal, which the said Commissioners are authorized to adopt for the purpose.

1876, ch. 344. P. L. L. (1888) Art. 4, sec. 714.

**738.** In addition to the six per cent. interest aforesaid, each holder of a certificate shall be entitled to receive for every one hundred dollars subscribed by him or her, as many free entrance tickets to the zoological collection as the said Commissioners may deem proper.

1886, ch. 438. P. L. L. (1888) Art. 4, sec. 720.

**739.** The Mayor and City Council of Baltimore are authorized to issue bonds or certificates of indebtedness of said corporation to an amount not exceeding one hundred thousand dollars, to be applied to the purchase of ground for and the establishment of a park in that portion of the City of Baltimore lying west of Poppleton street and south of Franklin street in said city; which said bonds or certificates of indebtedness shall be payable at such times and bear such rate of interest not exceeding three and one-half per centum per annum, as the said Mayor and City Council shall provide by ordinance; provided, that the said bonds or certificates of indebtedness shall not be issued unless the ordinance which the Mayor and City Council of Baltimore are authorized to enact for that purpose shall be approved by a majority of the votes of the legal voters of said city, cast at the time and places to be designated by said ordinance, in the provision for submitting the same to the legal voters of said city, as required by section 7, Article XI, of the Constitution of Maryland; provided, however, that the said bonds or certificates of indebtedness shall not be sold for less than par; and the said Mayor and City Council of Baltimore are authorized to provide by ordinance for the laying of such an annual tax as shall be sufficient to pay the interest on said bonds or certificates of indebtedness, and provide a sinking fund for their redemption at maturity.

1904, ch. 42.

**739a.** From and after the date of the passage of this Act no building, except churches, shall be erected or altered in the City of Baltimore on the territory bounded by the south side of Madison street, the west side of St. Paul street, the north side of Centre street, and the east side of Cathedral street, to exceed in height a point seventy feet above the surface of the street at the base line of the Washington Monument.

Cochran v. Preston, 108 Md. 220.

### PARK IMPROVEMENT LOAN.

1904, ch. 338.

**739b.** The Mayor and City Council of Baltimore be and is hereby authorized to issue its stock to an amount not exceeding one million dollars, said stock to be issued from time to time as the Mayor and City Council of Baltimore shall by ordinance prescribe, and to be issued for such amounts and to be payable at such time and to bear such rate of interest as the Mayor and City Council of Baltimore shall by ordinance provide; and the proceeds thereof to be used for the extension of the present park system of the City of Baltimore, and for the development and improvement for park purposes of the lands over which it shall be so extended, in such manner as the Mayor and City Council of Baltimore, shall by special ordinance or ordinances, or by the annual Ordinance of Estimates, prescribe; but said stock shall not be issued in whole or in part unless the ordinance of the Mayor and City Council of Baltimore providing for the issuance thereof, shall be submitted to the legal voters of the City of Baltimore, at such time and place as may be fixed by said ordinance, and be approved by a majority of the votes cast at such time and place, as required by section 7 of Article 11 of the Constitution of Maryland.

By the Act 1906, ch. 728, the Mayor and City Council of Baltimore is authorized to issue \$1,000,000 of city stock for the purpose of extending the Park system when an ordinance providing for the same shall be submitted to and approved by the people.

The Act 1904, ch. 338, was approved by the people, November, 1904.

1904, ch. 338.

**739c.** The Mayor and City Council of Baltimore, acting by and through the agency of the Board of Park Commissioners, may acquire by gift, purchase, lease, whatever the duration of the lease, or other like methods of acquisition or by condemnation, any land situate wholly or partly within the City of Balti-

more, or within the counties of Baltimore, Anne Arundel, and Howard, or any interest, franchise, easement, right or privilege therein, which may be required for the purpose of extending said park system, as aforesaid, or any part or parts thereof, and when and so often as resort shall be had to condemnation proceedings, the procedure shall be that marked out by sections 360 to 365, inclusive, of Article 23 of the Code of Public General Laws of Maryland, relating to condemnation of property by corporations, or so far as the acquisition by condemnation of any such lands situate wholly or partly within the City of Baltimore, or any interest, franchise, easement, right or privilege therein is concerned, may, in such case or cases, at the option of the Board of Park Commissioners, be such as may now or at any time hereafter provided for by any lawful ordinance or ordinances of the Mayor and City Council of Baltimore, adopted pursuant to the powers conferred upon it by section 6 of this Article, title "General Powers," sub-title, "Condemnation of Property," for the condemnation of any land or property or interest therein situated wholly or partly within the City of Baltimore, or such as may be provided for the very purpose by any lawful ordinance or ordinances of the Mayor and City Council of Baltimore, which said ordinance or ordinances the said Mayor and City Council of Baltimore is hereby fully authorized to adopt; *provided*, provision is made therein for reasonable notice to the owner or owners, and for appeals to the Baltimore City Court by any person interested, including the Mayor and City Council of Baltimore, from the decision of any Commissioners or other persons appointed to value any such land or interest, franchise, easement, right or privilege therein.

1904, ch. 338.

**739d.** In developing and improving any land acquired as aforesaid for park purposes, the Mayor and City Council of Baltimore shall be free from the restrictions created by Chapter 453 of the Acts of the General Assembly of Maryland, approved April 8, 1902.

The Act of 1902, ch. 453 re-enacted section 840 of the City Charter. *See post*, page 503.

1904, ch. 338.

**739e.** The interest on the loan authorized by this Act, and the sinking fund for the redemption of the said loan, shall be taken out of the receipts from the park tax on the street railway companies of Baltimore City, and not from the proceeds of the general tax levy.

1904, ch. 338.

**739f.** The Mayor and City Council of Baltimore are hereby authorized and empowered to expend equally the proceeds of the loan authorized by this Act in the acquisition of land in the four sections of the city and suburbs indicated by the intersection of Charles and Baltimore streets.

This loan was approved by the people at the election, November 7, 1905.

## POLICE COMMISSIONERS.

### *Organization of Force.*

P. L. L., (1860) Art. 4, sec. 806. 1860, ch. 7. 1867, ch. 367. 1874, ch. 2. 1900, ch. 15. P. L. L., (1888) Art. 4, sec. 722.

**740.** There shall be appointed by the Governor, by and with the advice and consent of the Senate, three sober and discreet persons, who shall have been registered voters in the City of Baltimore for three consecutive years next preceding the day of their appointment, who shall be known as the Board of Police Commissioners for the City of Baltimore; two of said Commissioners shall always be adherents of the two leading political parties in the State, one of each of said parties. Any of said Commissioners shall be subject to removal by the Governor for official misconduct or incompetency, in the manner provided by law in the case of other civil officers. Each of said Commissioners shall be appointed for two years, and their term of office shall commence on the first Monday of May next ensuing their appointment, and they shall hold office until their respective successors are appointed and qualified; each of said Commissioners shall receive a salary of twenty-five hundred dollars per annum, payable quarterly. None of said Commissioners shall be eligible to an elective or appointed office during the term for which he was appointed, except under the militia laws of the State, or where the qualifications for such office are prescribed by the Constitution. As the term of office of any Commissioners shall expire, as designated above, his successor shall be appointed for two years, subject to the foregoing provisions and limitations. Before entering upon the duties of his office, each Commissioner shall enter into bond to the State of Maryland, with one or more sureties, in the penalty of ten thousand dollars, conditioned for the faithful discharge of his duties as such Commissioner; said bond to be approved by the Judge of the Superior Court of the City of Baltimore, and to be kept and recorded by the clerk of said court, in the office thereof, together

with the certificate of appointment as aforesaid, and shall also take and subscribe before the said Judge of the Superior Court, or the clerk thereof, the oath or affirmation prescribed by the sixth section of the first Article of the Constitution, and the further oath or affirmation, that in every appointment, promotion, reduction in rank or removal to be made by them, to, in or from the police force created and organized under this subdivision of this Article, they will in no case, and under no pretext, appoint, promote, reduce in rank or remove any policeman or officer of police, or detective, or any other person under them, for or on account of the political opinions or affiliations 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 removed, and the said oath or affirmation shall be recorded and preserved among the records of said court.

Mayor and C. C. of Balto. v. State, 15 Md. 376. Mayor, etc. v. Howard, 20 Md. 335. Altwater v. Mayor, 31 Md. 462. Keyser v. Upshur, 92 Md. 728.

1867, ch. 367. 1900, ch. 15. P. L. L., (1888) Art. 4, sec. 723.

**741.** 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; all votes on appointments into the police force, and on promotions, reductions in rank therein, and dismissals of officers therefrom, and all votes awarding contracts or for the expenditures of any money shall be by a yea and nay vote, which shall be plainly recorded in the minute book of the Board of Police Commissioners, showing how each member of the board has voted on each of said questions. This minute book shall at all times be open under reasonable regulations to the inspection of the public. In case of the death, resignation, removal or disqualification of any Commissioner, the Governor shall appoint a successor for the remainder of the term so vacated, subject to the provisions of the foregoing section, and of the Constitution of the State; provided, that the present Board of Police Commissioners shall continue in office until the first Monday in May, nineteen hundred, with the right of removal, and to fill vacancies on the part of the Governor as provided by law.

Keyser v. Upshur, 92 Md. 728. 739.



1884, ch. 176. P. L. L., (1888) Art. 4, sec. 724. 1906, ch. 129. 1908, ch. 432. 1910, ch. 471. 1912, ch. 377.

**742.** The said Board of Police Commissioners shall select some suitable person to act as secretary to the Board, whose duty it shall be to keep minutes of the proceedings of the Board, take charge, by direction of the Board, of all property seized or found by the police or detectives, and to perform all clerical and proper duties required of him by said Board, and it shall be the further duty of said secretary to prepare forms of all poll books and election returns, warrants of arrests and commitments to be used by judges of election for all elections held in Baltimore City; to superintend carefully the printing thereof, and to perform all other clerical duties devolved upon said Board by law in connection with all the elections held in said city as may be required of him by said Board; said secretary shall enter into bond to the State of Maryland in the same manner as is by law prescribed for said Commissioners in the sum of five thousand dollars, conditioned for the faithful discharge of his duties aforesaid, and the safe keeping of all property placed in his hands as aforesaid, and shall receive the salary of three thousand dollars (\$3,000.00) per annum, payable monthly.

P. L. L., (1888) Art. 4, sec. 724A. 1892, ch. 549. 1906, ch. 129. 1908, ch. 432. 1910, ch. 471.

**743.** The Board of Police Commissioners are hereby authorized to employ an additional officer, to be known as assistant secretary to the Board, whose salary shall be eighteen hundred dollars per annum, payable monthly.

P. L. L., (1860) Art. 4, sec. 808. 1860, ch. 7. 1867, ch. 367. 1890, ch. 574. P. L. L., (1888) Art. 4, sec. 725.

**744.** 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 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 and water-courses, and all other places, provide a proper police force at every fire for the protection of firemen and property, protect strangers, emigrants and travelers at all steamboat, ferry-boat and ship landings and railway stations, see that all laws relating

to elections, and to the observance of Sunday, and regarding pawnbrokers, gambling, intemperance, lotteries and lottery policies, vagrants, disorderly persons and the public health are enforced, and also to enforce all laws, ordinances of the Mayor and City Council of Baltimore, not inconsistent with the provisions of this sub-division of this Article, or of any law of the State which may be properly enforceable by a police force; and in case the said Board of Police Commissioners shall have reason to believe that any person within the limits of the City of Baltimore intends 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 at any 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 to be followed, and to take the most effectual 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, the offender 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 sub-division of this Article, under such rules and regulations as the Board of Police Commissioners may adopt; and the said Board shall have power to summon witnesses before it and to administer oaths or affirmations to such witnesses whenever, in the judgment of the said Board, it may be necessary for the effectual discharge of their duties under this sub-division of this Article; and any person failing to appear in answer to said summons, or refusing to testify, shall be subject to a penalty of not less than twenty-five nor more than fifty dollars, to be recovered by civil action in the name of the State, to the use of the said Board, or by indictment in the Criminal Court of Baltimore; false swearing on the part of any such witness shall be deemed perjury, and shall be punished as such.

*Altwater v. Mayor*, 31 Md. 462. *Mitchell v. Lemon*, 34 Md. 176. *Flynn v. Canton Co.*, 40 Md. 312. *Roddy v. Finnegan*, 43 Md. 492. *State v. Strauss*, 49 Md. 288. *Brotherton v. Board of Police Commissioners*, 49 Md. 495. *Sinclair v. Baltimore*, 59 Md. 597. *Police Commissioners, Baltimore City v. Wagner*, 93 Md. 192. *Upshur v. Mayor, etc.*, 94 Md. 743. *Upshur v. Ward*, 94 Md. 778. *Wagner v. Upshur*, 95 Md. 519. *State v. Hymen*, 98 Md. 621 (approving *Baltimore City v. Wagner*, 93 Md. 192).

Photographing and measuring under Bertillon System before conviction. Limited use of photographs.

William F. Downs v. Sherlock Swann, *et al.*, 111 Md. 63.

P. L. L., (1860) Art. 4, sec. 809. 1886, ch. 186. 1888, ch. 98, sec. 24.  
 1888, ch. 303. 1888, ch. 500. P. L. L., (1888) Art. 4, sec. 726.  
 1890, ch. 124. 1894, ch. 240. 1900, ch. 425. 1906, ch.  
 129. 1908, ch. 234. 1910, ch. 465. 1910, ch. 471.  
 1912, ch. 503. 1912, ch. 847. 1914, ch. 785.

**745.** The said Board of Police Commissioners are authorized and required immediately on entering upon the duties of their office to appoint, enroll, and employ a permanent police force for the City of Baltimore, which they shall arm and equip as they may judge necessary, under such rules and regulations as they may from time to time prescribe, and the said Board shall have 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 the said police force, officers of police or any detective; said police force shall consist of one marshal and one deputy marshal of police; and for each police district, one captain, two lieutenants, two round sergeants, two turnkeys (who shall have the rank of patrolmen), and one clerk, and not more than three signal and telephone operators at each station-house; two additional captains, one of whom shall be assigned to have charge of the detective office, and one of whom shall be assigned to have charge of the police patrol boats; five additional lieutenants, one of whom shall be assigned to have charge of the Bureau of Identification; one of whom shall be assigned to the said police patrol boats; one of whom shall be assigned to have charge of the police department horses, wagons, motor vehicles and stables; one of whom shall be the superintendent of the police signal and telephone service; one of whom shall be assigned to night duty at Police Headquarters; and detectives not exceeding twenty-five, who shall not be allowed to follow any business or profession, but who shall devote their entire time to the discharge of their duties as detectives, no such lieutenant of detectives shall be eligible to take an examination for the grade of captain until he shall have served ten years as a detective, each and all such detectives to rank as lieutenants with equal opportunities of promotion with other lieutenants; such number of sergeants as the Board of Police Commissioners in their judgment may deem necessary; two additional round sergeants, one of whom shall be assigned as assistant to the superintendent of the Police Signal and Telephone Service, and one of whom shall be an experienced machinist and shall be known as superintendent of machinery, who shall have charge of

the mechanical care and repair of the motor vehicles of the Police Department, respectively, and seven hundred and ninety patrolmen, to be graded as provided in section 745 $\frac{1}{2}$  of this Act. The said police force may be increased at any time if in the opinion of the said Board the public peace shall so require, to any number and for such periods of time as they may think proper by the appointment of special policemen, who shall receive the sum of \$2.50 per day for their services. The members of the police force shall receive the following salaries, payable every two weeks: The marshal of police shall receive thirty-four hundred dollars per annum; the deputy marshal of police, twenty-eight hundred dollars per annum; the captain assigned to have charge of the detectives' office shall receive fifty dollars per week, and all other captains shall each receive forty dollars per week; the lieutenants assigned to have charge of the Bureau of Identification shall receive thirty-five dollars per week; and all other lieutenants and detectives shall each receive thirty dollars per week; each round sergeant, twenty-five dollars per week; each sergeant twenty-two dollars per week; except such sergeants as may be now or hereafter assigned by the said Board of Police Commissioners of Baltimore City to do clerical duty at Police Headquarters of Baltimore City, and the sergeant assigned to duty at the Juvenile Court of Baltimore City, not exceeding seven, who shall each receive the sum of thirty dollars per week; each turnkey, twenty dollars per week; each patrolman, twenty dollars per week, except as provided in section 745 $\frac{1}{2}$  of this Act; each station-house clerk shall receive twenty-two dollars per week, and each signal and telephone operator shall receive sixteen dollars per week; provided, further, however, that whenever it may be deemed necessary by the said Board to assign patrolmen to police headquarters for clerical or technical duty, such patrolman while so assigned shall receive in the discretion of the said Board a salary of not less than twenty nor more than twenty-two dollars per week; provided, however, that nothing herein contained shall be construed to legislate out of office any police officer, detective or officer of police now on the force or any clerk or any appointee or any employee of the Board of Police Commissioners of Baltimore City.

Keyser v. Upshur, 92 Md. 726. Upshur v. Ward, 94 Md. 778. Upshur v. Hamilton, 95 Md. 566. Cf., Baltimore v. Poultney, 25 Md. 32.

Special Act raising salaries of certain sergeants held repealed by later Act.

Baltimore v. Davis, 120 Md. 403.

1912, ch. 847.

**745½.** The patrolmen provided for in section 745 of this Act shall hereafter be appointed by the Board of Police Commissioners in the manner following: Said patrolmen shall consist of three grades; all patrolmen who shall have served for two years or more on said force shall be members of the first grade and receive the salary of twenty dollars per week; all patrolmen who shall have served on said force less than two years and more than one year shall be members of the second grade and receive the salary of seventeen dollars and fifty cents per week; all patrolmen who shall have served on the said force for less than one year shall be members of the third grade and receive the salary of fifteen dollars per week. Third grade patrolmen shall be entitled to be advanced to the second grade at the expiration of the first year, without competitive examination, if they shall have performed their duties satisfactory. The second grade patrolmen shall be entitled to be advanced at the expiration of two years to the first grade, without competitive examination, if their services in the second grade have been satisfactory. Patrolmen of the third and second grades to be known as probation officers and they shall not be advanced as aforesaid except after examination by said Board of Police Commissioners as to their records, efficiency and conduct, and unless they are certified to said Board by the police physicians as physically qualified to continue to discharge the duties of a patrolman.

1900, ch. 16. 1902, ch. 591.

**745A.** There shall be appointed by the Governor, by and with the advice of the Senate, three sober and discreet persons, who shall be registered voters of the City of Baltimore, for three consecutive years next preceding the day of their appointment, who shall be known as the Board of Police Examiners of Baltimore City. Two of said Examiners shall be adherents of the two leading parties in the State, one of each of said parties. Any of said Board of Police Examiners shall be subject to removal by the Governor for official misconduct or incompetency, in the manner provided by law in case of other civil officers. Each of said Board of Police Examiners shall be appointed for two years, and they shall hold office until their respective successors are appointed and qualified. Each of said Board of Police Examiners shall receive a salary of one thousand two hundred dollars per annum, payable monthly. None of said Board of Police Examiners shall be eligible to an elective or appointive office, except under the militia laws of the State: as

the term of any Examiner shall expire as designated above, his successor shall be appointed for two years, subject to the foregoing provisions and limitations. Before entering upon the duties of his office, each member of said Board of Police Examiners shall take and subscribe before the Judge of the Superior Court of the City of Baltimore, or the Clerk thereof, the oath or affirmation prescribed by the sixth section of the first Article of the Constitution, and the further oath or affirmation that in every nomination to the Board of Police Commissioners for Baltimore City of any person for appointment as police officer, officer of police or detective, for promotion, they shall in no case and under no pretext make such nomination for or on account of the religion or political opinions or affiliations of the person nominated by them, or for any other cause or reason than the fitness of such person in the best judgment of said Board of Police Examiners for the place to which he shall be nominated; and said oath or affirmation shall be recorded and preserved among the records of said Court.

Keyser v. Upshur, 92 Md. 728. Upshur v. Ward, 94 Md. 778. Upshur v. Hamilton, 65 Md. 561.

1900, ch. 16.

**745B.** The said Board of Police Examiners may elect one of its members to be president, and may employ a secretary, who shall hold office during the pleasure of the Board. The secretary shall receive a salary of \$1,200 per annum, payable monthly, and his duties shall be such as may be prescribed from time to time by said Board of Police Examiners.

Keyser v. Upshur, 92 Md. 726.

1900, ch. 16.

**745C.** It shall be the duty of the Mayor and City Council of Baltimore to cause suitable rooms and accommodations to be assigned and provided, and to be furnished, heated and lighted, in the City of Baltimore for carrying on the work and examination of the said Board of Police Examiners; and said Board may order the necessary stationery, postage stamps, official seals and other articles to be supplied, and the necessary printing to be done for its official use.

Keyser v. Upshur, 92 Md. 726.

1900, ch. 16. 1910, ch. 517.

**745D.** It shall be the duty of the said Board of Police Examiners, and they are hereby authorized and empowered to

prescribe, amend and enforce definite and uniform rules and regulations for carrying this Act into effect, which rules and regulations, when adopted and promulgated, shall have the effect of law, and to ascertain the qualifications by competitive examination of every candidate for appointment to or promotion in the police force, created and organized under existing law for the City of Baltimore, except the marshal of police and captain of detectives, counsel and police surgeons, and to report to the Board of Police Commissioners for the City of Baltimore graded lists of those persons whom they deem qualified for such appointment or promotion, from which graded lists all nominations for appointment to or promotion in said police force shall hereafter be made by said Board of Police Examiners for the City of Baltimore. All such nominations for appointment to or promotion in said police force, shall be made in the order in which the names of the nominees appear upon such graded lists, said graded lists and nominations for appointments and promotions in the said police force so as aforesaid furnished and made by the Board of Police Examiners shall last and be in effect for one year from the date the said graded lists and nominations were furnished, and made as herein provided, and null and void after the expiration of twelve months, unless said graded lists and nominations are sooner exhausted by appointment, promotion or rejection by the Board of Police Commissioners; provided that the persons whose names shall be remaining on said graded lists or in nomination at the expiration of the year as aforesaid, shall be eligible for re-examination, and shall have opportunity to secure a place on the next subsequent graded list, to be made up for the grade or position to which he was eligible prior to the expiration of the graded list containing his name as above stated; and provided, however, that nothing herein contained shall apply to the graded lists already before said Board of Police Commissioners, but that the graded lists and nominations for the grades of captain and lieutenant heretofore furnished and made shall expire on December thirty-first, nineteen hundred and ten; and the graded lists and nominations for the grade of round sergeant on June thirtieth, nineteen hundred and ten; and the graded lists and nominations for the grade of sergeant on September thirtieth, nineteen hundred and ten; and the graded lists and nominations for the position of probationer on March thirty-first, nineteen hundred and eleven. In the preparation of the graded list, the said Board of Police Examiners shall ascertain by open competitive examinations the relative qualifications of the respective candidates for appointment or

promotion, and shall place the names of the accepted candidates upon said graded lists in the order of their relative qualifications, so ascertained by such competitive examinations. The examinations shall be public and practical in character and relate to those matters which shall fairly test the relative capacity and fitness of the persons to discharge the duties of the position in the said police force to which they desire appointment or in which they seek promotion, including their past record on the force. The graded lists shall always be open to the inspection of the public.

*Keyser v. Upshur*, 92 Md. 729. *Upshur v. Ward*, 94 Md. 781.

1900, ch. 16.

**745E.** Intending competitors for appointment to said police or for promotion therein shall file in the office of said Board of Police Examiners, a reasonable length of time before the date of any examination, a formal application, in which the applicant shall state under oath :

1st. His full name and residence.

2d. His age, the place and date of his birth.

3d. His health and physical capacity for the position to which he aspires.

4th. If an applicant for appointment, his business or employment, and residence for at least the previous three years.

5th. Such other information as may reasonably be required touching the applicant's merit and fitness for service on or promotion in the said police force.

Blank forms for such applications shall be furnished by the said Board of Police Examiners, without charge, to all persons requesting the same. The applicant shall file with the said Board of Police Examiners, in connection with his application, such certificates of citizens, physicians, public officers or others having knowledge of the applicant, as the good of the service may require. The said Board of Police Examiners shall refuse to examine an applicant, or after an examination to certify an eligible who is found to lack any of the established preliminary requirements for the examination or position to which he applies; or who is physically so disabled as to be rendered unfit for his performance of the duties of the position to which he seeks appointment or promotion; or who is addicted to the habitual use of intoxicating beverages to excess; or who has been guilty of a crime or of infamous or notoriously disgraceful conduct, or who has been dismissed from the public service for delinquency or misconduct, or who has intentionally made a false statement



of any material fact, or practiced, or attempted to practice, any deception or fraud in his application, in his examination, or in securing his eligibility or appointment.

Keyser v. Upshur, 92 Md. 726. Upshur v. Hamilton, 95 Md. 568.

1900, ch. 16.

**745F.** In the appointment, promotion, reduction in rank, transfer or removal of any police officer or officers of police, or any detective by the Board of Police Commissioners for the City of Baltimore, and in their administration of the Police Department of Baltimore City, ecclesiastical and party ties shall not be regarded, so that the Police Department of said city may be entirely out of the field of political and religious differences, controversies and influences. The said Board of Police Commissioners for the City of Baltimore shall confirm or reject all nominations for appointment or promotion of police officers, officers of police and detectives made to it, hereinbefore provided by the Board of Police Examiners of the City of Baltimore. The said Board of Police Commissioners shall not confirm the nomination or make the appointment or promotion of any police officer, officer of police or detective, except the marshal of police and captain of detectives, counsel and surgeons, whose name does not appear upon the graded lists to be furnished said Board of Police Commissioners by the said Board of Police Examiners for the City of Baltimore. All police officers, officers of police and detectives, secretaries, clerks and employees, other than counsel and police surgeons, of the Police Department of Baltimore City shall be retained on the force during good behavior and efficiency by the said Board of Police Commissioners of the City of Baltimore, and may be removed by the said Board of Police Commissioners for official misconduct or inefficiency, and then only after written charges preferred, specifying the time, place and character of such misconduct and inefficiency, and trial had before the Board of Police Commissioners, after reasonable notice thereof.

Keyser v. Upshur, 92 Md. 729. Upshur v. Ward, 94 Md. 778. Upshur v. Hamilton, 95 Md. 567.

1908, ch. 741.

**745G.** The detectives provided for in section 745 of this subdivision of this Article shall be appointed by the Board of Police Commissioners solely from the uniform force below the grade of round sergeant and above the position of probationer; detectives shall have a grade in the permanent police force equal to

that of round sergeant, with the right of promotion from such grade and subject to reduction therefrom to the next lower grade in the same manner as round sergeants upon the uniform force; the said detectives shall not be allowed to follow any other business, or profession, but shall devote their entire time to the discharge of their duties as detectives; they shall be selected without competitive examination and solely on account of their special fitness and qualification, in the judgment of the Board of Police Commissioners, to perform detective work; provided, however, that the Board of Police Commissioners shall have the power, in its discretion, to transfer from the detective service and return to the grade in the uniform force from which he may have been selected, any member of the force so as aforesaid appointed a detective, who, in the judgment of the said Board, after reasonable length of employment in the detective service, may be found not qualified to satisfactorily discharge the duties of a detective, and when so transferred and returned, such member shall only be entitled to receive the pay of the grade in the uniform force to which he may be transferred and returned.

1912, ch. 647.

**745H.** The Board of Police Commissioners are hereby empowered to appoint, in their discretion, one or more matrons to the police force of Baltimore City, with full power to such matrons to act as conservators of the peace, perform such duties as the Board may prescribe and to be subject in all respects to such rules and regulations as the Board of Police Commissioners may adopt, and the said Board shall have the power to remove any matron appointed by them for the violation of any rule or regulation of the said Board. The salary of a matron so appointed under the authority of this Act shall not exceed the sum of one thousand dollars (\$1,000) per annum, to be paid by the Mayor and City Council of Baltimore, and it shall be included in the annual estimate of expenses by said Board of Police Commissioners, certified to the Mayor and City Council of Baltimore.

1912, ch. 647.

**745I.** That not more than five matrons shall be appointed under authority of this Act for police duty.

1912, ch. 647.

**745J.** That the matrons appointed under authority of this Act shall not be required to pass examination for appointment by the Board of Police Examiners.

1874, ch. 458. P. L. L., (1888) Art. 4, sec. 727. 1906, ch. 129. 1908, ch. 432. 1910, ch. 471.

**746.** They are authorized, empowered and directed to select some suitable person to act as secretary to the Marshal of Police of said city, at a salary of eighteen hundred dollars per annum, payable monthly; and the said secretary upon entering upon the duties of his office shall enter into bond to the State of Maryland in the penalty of two thousand dollars, conditioned for the faithful discharge of his duties as such secretary, the said bond to be approved by the said Board of Police Commissioners.

Sec. 2 of ch. 129, Acts 1906, reads as follows:

Section 2. And be it further enacted, That all laws now in force relating to the Board of Police Commissioners of the City of Baltimore not included in this Act and not inconsistent herewith shall be and they are continued in force and effect until changed or repealed by the General Assembly of Maryland. All Acts or parts of Acts inconsistent with this Act are hereby repealed, and it is hereby expressly and distinctly understood and declared that this Act in no manner, shape or form increases or affects the pensions of the retired members of said police force who were retired or will be retired, prior to January 1st, 1907, but that they shall continue to receive the same amount or same pension they received prior to the said 1st day of January 1907 and no more.

P. L. L., (1860) Art. 4, sec. 818. 1867, ch. 367. P. L. L., (1888) Art. 4, sec. 728.

**747.** It shall be their duty to estimate annually what sum of money will be necessary for each current fiscal year to enable them to discharge the duty imposed on them, and they shall forthwith certify the same to the Mayor and City Council of Baltimore, who are 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 cause the same to be collected as all other city taxes; and it is made the duty of the City Collector of Baltimore, and he is required to collect said tax, to be denominated the police tax; and the said Board of Police Commissioners, upon and after qualifying as such are authorized to make requisitions from time to time upon the Comptroller of the City of Baltimore, or other proper disbursing officer 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 sub-division of this Article; 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 of Baltimore aforesaid; and in case the said disbursing officer shall not forthwith pay over the

amount of each requisition as made, it shall be the duty of the said Board, and they are 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 that organized and employed under this sub-division of this Article; and no officer or other employee of the said Mayor and City Council of Baltimore 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 organized and employed under this sub-division of this Article shall be exercised as herein directed, and not otherwise; and in case the amount so as aforesaid to be estimated by the said Board shall from any cause prove insufficient for the necessary expenses for the current year, the said Board is 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 the 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.

Mayor, etc. v. Poultney & Trimble, 25 Md. 18.

Mandamus held to be unnecessary in this case to compel the city to assess and levy the amount required by the Police Department, as the Police Board has the authority to make requests from time to time upon the City Comptroller for their needs. (Construed in connection with Section 36 of the Charter).

McEvoy v. Baltimore, 125 Md. —.

The Board of Police Commissioners are not subject to the provisions of Section 14 of the Charter, and Section 36B of the Charter.

Thrift v. Aumidon, 125 Md. —.

P. L. L., (1860) Art. 4, sec. 816. 1867, ch. 367. P. L. L., (1888) Art. 4, sec. 729.

748. 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 to do so, he shall summon the *posse comitatus* for that purpose, and hold and employ such *posse*, subject to their discretion in case the said Board shall deem it necessary; they shall call out such military force, lawfully organized or existing in said city, as they may see fit, to aid them in preventing threatened disorder or opposition to the laws, or in suppressing insurrection, riot or disorder, on election days, and at all other times; and it shall be the duty of said military force so called out, to obey such orders as may be given them by said Board; whenever the exigency or circumstances may in their judgment, warrant it, the said Board shall have the power to assume the control and command of all conservators of the peace in the City of Baltimore, whether sheriffs, constables, police or others, and they shall act under the orders of the said Board, and not otherwise; and in case of the refusal of the said sheriff, or any policeman, constable, or other peace officer or persons, to obey any lawful command of said Board under the provisions of this section, they shall, respectively, be guilty of a misdemeanor and punishable as in such cases made and provided: and any officer of any military force in the City of Baltimore, organized under any law now existing, or which may hereinafter be enacted by the General Assembly of this State, who, upon being called on by the said Board as aforesaid, shall refuse or wilfully fail to call out the force under his command, or to obey the orders of the said Board, or to enforce by all lawful means the performance of the duties to said force assigned; and any inferior officer or private who shall refuse or wilfully fail to obey the orders of his superior officer in such behalf, shall be guilty of a misdemeanor, and punishable as in such cases made and provided.

1867, ch. 367. P. L. L., (1888) Art. 4, sec. 730.

749. 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 authorized to make all such rules and regulations, not inconsistent with this sub-division of this Article, 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 month's pay; 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 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 or policeman, or suspend any rule or regulation made and adopted by them.

P. L. L., (1860) Art. 4, sec. 814. 1867, ch. 367. P. L. L., (1888) Art. 4, sec. 731.

**750.** No officer of police, policeman or detective shall be allowed to receive any money as a gratuity or extra compensation for any services he may render, without the consent of the said Board; and all such moneys as any officer of police, policeman and detective may be so permitted to receive shall be paid over to the said Board and together with the proceeds of all fines, forfeitures, penalties and unclaimed property which may come into the possession of the said Board, or be recovered by them under the provisions of this sub-division of this Article, 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 be forever after ineligible to any position in the force.

P. L. L., (1860) Art. 4, sec. 821. 1874, ch. 146. P. L. L., (1888) Art. 4, sec. 732.

**751.** The Board of Police Commissioners shall cause to be kept by their secretary, a full report of their proceedings, and also cause all their receipts and disbursements of money to be faithfully entered in books to be provided for that purpose: and

said books, journals and all other documents in the possession of said Board, shall always be open to inspection by the General Assembly, or any committee appointed by it for that purpose; and it shall be the duty of the said Board to report to the General Assembly at each regular session, or as may hereafter be directed by said General Assembly, the number and expense of the police force employed by them under this sub-division of this Article, and all such other matters as may be of public interest in connection with the duties assigned to them; and said books, journals and other documents, and the vouchers for all payments by said Board of Police Commissioners shall at all times be open to the inspection of the Mayor and City Register, or either of them; and it shall be the duty of the Comptroller of the City of Baltimore to examine all bills and accounts presented by said Board of Police Commissioners and the vouchers therefor.

1910, ch. 230.

**751a.** That the Board of Police Commissioners for Baltimore City be and they are hereby authorized and required to report to the Governor annually, in the month of January, the number and expense of the police force employed by them under this sub-division of this Article, and all such other matters as may be of public interest in connection with the duties assigned to them, instead of to the General Assembly as provided by section 751 of Article 4 of the Public Local Laws of Maryland, entitled "City of Baltimore," sub-title "Police Commissioners."

1867, ch. 367. P. L. L., (1888) Art. 4, sec. 733.

**752.** The treasurer of the Board of Police Commissioners, 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, 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 accounts shall be verified by the affidavit of 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.

1867, ch. 367. P. L. L., (1888) Art. 4, sec. 734.

**753.** The said Board of Police Commissioners are authorized and empowered, whenever in their judgment the public peace and tranquility may require, to order the closing temporarily of any and all bar rooms, bars, drinking houses and liquor shops, and all other places where liquor is usually sold in the City of Baltimore, and forbid the selling and furnishing of liquor thereat; and any proprietor or keeper, or any other person for such proprietor or keeper, of any such drinking house, place or places, as well as all other places where liquor is usually sold, who shall refuse or fail to obey such order of said Board of Police Commissioners passed in pursuance thereof, or who shall sell or furnish liquor from any such place or places, during such period as said Board shall so forbid, shall be guilty of a misdemeanor; and it shall be the duty of each and every officer of police, policeman and detective, who may be cognizant of any violation of this section, to report the same to the Grand Jury of the City of Baltimore, if in session, and if not in session, then to the next Grand Jury that may be summoned for said city; and every officer of police, policeman and detective who shall wilfully fail to make such report shall be forthwith dismissed from his position, and shall be forever after ineligible to any position in the police

State v. Strauss, 49 Md. 288.

1867, ch. 367. P. L. L., (1888) Art. 4, sec. 735.

**754.** They are 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 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 any 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 sub-division of this Article.

1867, ch. 367. P. L. L., (1888) Art. 4, sec. 736.

**755.** 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 officer 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 secretary, to be provided for that purpose; said secretary 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.

Upshur v. Mayor. 94 Md. 743.

1886, ch. 459. 1888, ch. 306. P. L. L., (1888) Art. 4, sec. 756. 1898, ch.

494. 1900, ch. 233. 1902, ch. 81. 1910, ch. 391. 1912, ch. 189.

**756.** In addition to the sums of money now authorized by law to be paid out of the fund in the hands of the Board of Police Commissioners of Baltimore City and known and accounted for as a special fund, the said Board of Police Commissioners are empowered whenever, in their opinion, the efficiency of the service may require it, to retire any officer of police, policeman, detective, clerk or turnkey appointed by them and pay him in monthly instalments out of said special fund for life a sum of money equal to one-half of the amount of money monthly paid to such officer of police, policeman, detective, clerk or turnkey as provided by law; provided, however, he shall have served faithfully not less than twenty years as such officer

of police, policeman, detective, clerk or turnkey, or shall have been permanently disabled in the discharge of his duty as such officer of police, policeman, detective, clerk or turnkey; and the said Board of Police Commissioners shall in all cases before making such retirement procure and file away among their records a certificate signed by a majority of the police physicians of Baltimore City that the person proposed to be retired has been thoroughly examined by them, and that he is incapable of performing active duty; and it shall be the duty of such officer of police, policeman, detective, clerk or turnkey so retired to perform such police duties and at such times as the said Board of Police Commissioners shall deem proper, said terms of service not to exceed seven days during any year, and for such services no extra compensation shall be allowed by said Board; and the said Board shall have the power in their discretion to suspend payment to any such officer of police, policeman, detective, clerk or turnkey for a term not to exceed three months for the first offense; for the second offense, for a term not to exceed six months, and for the third offense, any officer of police, policeman, detective, clerk or turnkey shall be subject to dismissal upon proof given that the said officer of police, policeman, detective, clerk or turnkey is or has been, in the judgment of the said Board, living an improper or immoral life. Provided, however, that the provisions of this section with reference to the retirement of officers of police, policemen, detectives, clerks and turnkeys after service of not less than twenty years shall not apply to officers of police, policemen, detectives, clerks and turnkeys now on the force or in the employ of the Police Department, but only to such as may hereafter be appointed, and that all officers of police, policemen, detectives, clerks and turnkeys now on the force or in the employ of the Police Department may be retired after faithful service for sixteen years in the same manner as before the passage of this Act.

Construing this section in connection with section 756, P. L. L., (1888) Art. 4, it would appear that this section should follow section 776, post, such being the arrangement in Art. 4, aforesaid.

1912, ch. 189.

**756A.** The Board of Police Commissioners of the City of Baltimore are empowered whenever in their judgment the efficiency of the service may require it, to retire any officer of police, policeman, detective, clerk or turnkey appointed by them who may be ineligible in the way of length of service to retirement on pay for life under the requirements of section 756 of this sub-division of this Article, but who has served faith-

fully and become permanently incapacitated for active duty and to pay such officer of police, policeman, detective, clerk or turnkey retired as in this section provided, out of the fund in its hands known and accounted for as the Special Fund, a sum of money not to exceed one year's salary allowed to him by law at the time of his said retirement, provided the said Board shall in all cases before making such retirement procure and file among their records a certificate of a majority of the police physicians of Baltimore City that the person proposed to be retired has been thoroughly examined by them, and that he is incapable of performing active duty.

1867, ch. 367. P. L. L., (1888) Art. 4, sec. 738.

**757.** 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 Justice, the Judge of the Criminal Court, or one of the members of the Board, or other lawful process.

*Brish v. Carter*, 98 Md. 452.

1867, ch. 367. P. L. L., (1888) Art. 4, sec. 739.

**758.** The said Board of Police Commissioners are required on the requisition of the Board of 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 any parks under their control, which detailed force shall have the same power in the premises that the police force of the city have, as conservators of the peace.

*Upshur v. Mayor*, 94 Md. 747.

P. L. L., (1860) Art. 4, sec. 822. 1867, ch. 367. P. L. L., (1888) Art. 4, sec. 740.

**759.** Nothing in this sub-division of this Article shall be so construed as to destroy or diminish the liability or responsibility of the Mayor and City Council of Baltimore for any failure to discharge the duties and obligations of said Mayor and City Council of Baltimore, or any of them, or give the said Mayor and Council of Baltimore any control over said Board or any officer of police, policeman or detective appointed thereby.

*Baltimore v. Poultney*, 25 Md. 31. *Altwater v. Mayor*, 31 Md. 462. *Flynn v. Canton Co.*, 40 Md. 312. *Sinclair v. Mayor*, 59 Md. 592. *Upshur v. Mayor, &c.*, 94 Md. 743.

1898, ch. 474.

**759a.** No member of the police force provided for by this Article and sub-title shall be by the said Board of Police Commissioners employed or be permitted to be employed, to do or perform for the said Board, or the Mayor and City Council of Baltimore, any mechanical work or labor other than the work or labor required of the members of said police force by the provisions of this Article and sub-title relating to police duties. The purpose and object of this section is to prevent patrolmen and other members of said police force from being taken from the performance of police duty, as prescribed by this Article and sub-title and made to perform the work and labor of carpenters, bricklayers and similar mechanical work and labor.

1867, ch. 367. 1892, ch. 536. P. L. L., (1888) Art. 4, sec. 741.

**760.** All persons arrested in the day-time under the provisions of this sub-division of this Article shall be taken by the officer making the arrest immediately before the nearest Police Justice for examination, except that all females and male children under fourteen years of age who may be arrested or taken into custody shall be taken before the nearest Police Justice for examination when there shall be matrons at the station-house as hereinafter provided.

*Brish v. Carter*, 98 Md. 451.

**761.** Repealed by Act of 1912, Chapter 777.

P. L. L., (1888) Art. 4, sec. 742A. 1890, ch. 534. 1910, ch. 669. 1912, ch. 777.

**762.** Any person in the City of Baltimore who shall wear or carry any pistol, dirk knife, bowie knife, slingshot, billy, sand-bag, metal knuckles, razor or other dangerous or deadly weapons of any kind whatsoever, concealed upon or about his person, or any person, who shall carry or wear such weapon openly, with the intention or purpose of injuring any person, shall, upon conviction thereof, be punished by a fine of not more than \$100, or imprisonment of not more than six months in jail or in the House of Correction, or by both such fine and imprisonment, in the discretion of the Justice of the Peace, before whom the said person may be tried, or in the discretion of the Judge of the Criminal Court of Baltimore as the case may be. This section shall not apply to any conservator of the peace entitled or required to carry any such weapon as part of his official equipment or be construed to prohibit the carrying or wearing of

penknives, nor to punish any person carrying any weapon as a reasonable precaution against danger; but the Justice or the Court before whom such case may be tried, shall in each case have the right to judge of the reasonableness of the carrying of such weapon and of the proper occasion therefor; nor shall this section release or discharge any person or persons already offending, against the laws in such case made and provided; but such person or persons may be proceeded against, prosecuted and punished under the laws of this State as if this section had not been passed.

1882, ch. 34. 1888, ch. 303. 1892, ch. 309. 1900, ch. 421. 1904, ch. 186.  
P. L. L., (1888) Art. 4, sec. 743.

**763.** The said Board of Police Commissioners are authorized, empowered and directed to grant leave of absence, with pay, for a period of thirty days for each consecutive year of service to each of the officers of police, policemen and detectives of the regular force employed by the said Board; nor shall any enforced absence, with leave, on account of sickness or death be deducted from the pay of any such officer of police, policemen or detective, or from their thirty days leave as herein provided for.

1892, ch. 309. P. L. L., (1888) Art. 4, sec. 743A.

**764.** The Board of Police Commissioners are hereby authorized and empowered to appoint and employ, in addition to the number now authorized by law, fifteen additional probation officers, said officers so appointed to hold their places and receive their pay under the provisions of law now in force and applicable to probation officers.

#### MATRONS AT THE STATION HOUSES.

1884, ch. 225. 1892, ch. 536. 1900, ch. 533. P. L. L., (1888) Art. 4,  
sec. 744.

**765.** The Board of Police Commissioners of Baltimore shall appoint two suitable women as matrons at each of the station-houses in said city, one for day and the other for night service and one suitable woman as superintendent of matrons for Baltimore City, and two additional suitable women as substitute matrons, and shall provide a furnished room at each of said station-houses for them.

1884, ch. 225. 1892, ch. 536. 1900, ch. 533. P. L. L., (1888) Art. 4,  
sec. 745.

**766.** No woman shall be appointed as a matron or superin-

tendent of matrons or substitute matron as aforesaid by the Board unless she shall be recommended to said Board, within three months preceding her appointment, by at least twenty women in good standing in said city in writing, as a suitable person for the position, and the said matrons and superintendent of matrons and substitute matrons shall be appointed to serve for four years, subject to removal for cause after a hearing by the said Board, which is hereby vested with jurisdiction in the premises; provided, however, that said substitute matrons shall perform the duties of matrons when called upon by said Board in the absence or disability of any of said matrons, or as necessity for their services may arise and shall only receive pay during the time of actual service rendered by them.

1884. ch. 225. 1892. ch. 536. 1900. ch. 533. P. L. L. (1888) Art. 4. sec. 746.

**767.** The duties of each matron shall be to give such care and advice, and to perform such other police duties as may be requisite and proper, to the female persons, male children under fourteen years of age, and refugees in the station-house for which said matrons shall have been appointed or assigned; and the duties of the superintendent of matrons shall be to visit each of the police station-houses twice each week, and to give assistance to the matrons in the performance of their duties, and to make such recommendations from time to time to the Board of Police Commissioners as may promote the efficiency and proper performance of the duties of the matron.

1884. ch. 225. P. L. L. (1888) Art. 4. sec. 747. 1892. ch. 536. 1900. ch. 533. 1902. ch. 492. 1908. ch. 173. 1914. ch. 757.

**768.** Each of said matrons, and substitute matrons when employed shall receive a salary of twenty dollars per week, and the Superintendent of Matrons a salary of twenty-five dollars per week, to be paid by the Mayor and City Council of Baltimore, and it shall be included in the annual estimate of expenses by said Board of Police Commissioners, certified to the Mayor and City Council of Baltimore.

1912. ch. 59.

**768A.** The Board of Police Commissioners for the City of Baltimore are hereby authorized to employ such number of women as charwomen for the several station-houses in the City of Baltimore as may in the judgment of said Board of Police Commissioners be necessary to care for the said station-houses; and the said charwomen and substitute charwomen so employed

shall, beginning with the first of January, 1913, each receive a salary of ten dollars a week, payable at such regular periods as the Board of Police Commissioners may prescribe, not less than twice a month, said salary to be paid by the Mayor and City Council of Baltimore and to be included in the annual estimate of expenses by said Board of Police Commissioners, certified to the Mayor and City Council of Baltimore.

### MILITIA.

1870, ch. 182. P. L. L., (1888) Art. 4, sec. 748.

**769.** Whenever the Board of Police Commissioners for the City of Baltimore, or the Sheriff of any county, shall call out any portion of the militia to aid in preventing threatened disorder or opposition to the laws, or in suppressing riot or disorder on election days, or at any other times, said military force shall be deemed to be on detached service while under the orders of the said Board or Sheriff; and the commanding officer thereof shall not be subject to the orders of any superior officer whatsoever, except the commander-in-chief.

### PATROL WAGONS.

1886, ch. 459. P. L. L., (1888) Art. 4, sec. 749.

**770.** The said Board of Police Commissioners are authorized and directed to construct, equip and maintain a telephone alarm and patrol wagon service, with all necessaries, appliances and laborers; provided, however, the expenditures therefor will not impair the special fund mentioned in sections 576 and 777 of this Article, so as to prevent its sufficient application to the purposes provided for in said sections.

### PHYSICIANS TO THE POLICE FORCE.

1888, ch. 150. 1904, ch. 630. P. L. L., (1888) Art. 4, sec. 750.

**771.** The said Board of Police Commissioners for the City of Baltimore are authorized to appoint and commission biennially five physicians of integrity and capacity, residents of Baltimore City, and who shall have practiced medicine therein for at least three years, next preceding the date of their commission, to act as physicians of the Police Department of said city, under such rules and regulations as the said Board may from time to time prescribe for their conduct; one of the said physicians shall be designated by the said Board as the chief physician.

1888, ch. 150. P. L. L., (1888) Art. 4, sec. 751.

**772.** The duties of the said physicians shall be to examine thoroughly all applicants for position in the police force of Baltimore City and to test their entire fitness in every respect for such position; to visit all policemen, turnkeys, detectives, officers of police and clerks of said force, who may be returned as sick, and to report their condition to the said Board, to visit and professionally attend any and all of the said persons who may be injured or disabled in the performance of their duties as members of the said force; to thoroughly examine and report to the said Board the physical condition of each and every member of said force, who may, upon his own application, or who the said Board may think should be retired from the said force and be pensioned under this sub-division of this Article and to perform all such other and further professional duties in connection with the said department and force as the said Board may from time to time deem necessary and prescribe for them.

1888, ch. 150. 1904, ch. 630. P. L. L., (1888) Art. 4, sec. 752.

**773.** The salary of the said chief physician shall be fifteen hundred dollars per annum, payable monthly; and the salary of each of the other said physicians shall be one thousand dollars per annum, payable monthly; but the tenure of office of the said chief physician and each of the other of said physicians shall be determinable within the term for which he or they were appointed by a majority of the said Board, and in their exclusive discretion; and the said chief physician and each of the other of said physicians shall be compensated only up to the time of such determination at the rate of his or their salary aforesaid.

1912, ch. 733.

**773A.** That the Board of Police Commissioners for the City of Baltimore shall appoint and commission biennially two men and two women physicians of integrity and capacity, residents of Baltimore City, and who shall have practiced medicine therein for at least three years next preceding the date of their commissions, whose duties shall be to attend at the various station-houses in the City of Baltimore, at the Juvenile Courts in Baltimore City and at the office of the State's Attorney of Baltimore City, from time to time, when required by the magistrates sitting at the said several station-houses, or by the magistrate sitting as the magistrate for juvenile causes in said city, or by the State's Attorney of Baltimore City, and examine all



women and female children brought to the said several station-houses, or to the Juvenile Court in Baltimore City, or before the State's Attorney of Baltimore City, when, in the opinion of the police magistrates sitting at the said several station-houses or the magistrate sitting as the magistrate for juvenile causes in said city or the State's Attorney of Baltimore City, an examination requiring the exposure of the person of such woman or female child or children may be required.

1912, ch. 733.

**773B.** That the said magistrates sitting at the said several police stations, the said magistrate sitting as the magistrate for juvenile causes in said city and the State's Attorney of Baltimore City, shall, whenever any examination requiring the exposure of the person of any woman or female child or children brought before them is necessary for the proper hearing or disposition of the case, notify the Board of Police Commissioners for the City of Baltimore, who shall designate alternately one of the men and one of the women physicians of the physicians provided for under section 773A herein, to attend and make the said examination.

1912, ch. 733.

**773C.** That each physician making said examination required under the previous sections receive therefor a fee of five dollars for each such case, to be paid by the Mayor and City Council of Baltimore; provided, however, that no such fee shall be paid unless the bill rendered therefor shall be certified to by the police magistrate ordering such examination, or by the magistrate sitting as the magistrate for juvenile causes in said city or by the State's Attorney for Baltimore City, in case the said examination was made on his order. Said sum of five dollars hereinbefore mentioned shall include any testimony given before such magistrate, but if said physician shall be required to appear and testify before the Criminal Court of Baltimore City in reference to such examination he or she shall be allowed an additional sum of ten dollars for so appearing and testifying; provided, however, that the total allowance in any case examined by such physician for all services rendered by him or her shall not exceed fifteen dollars.

## RACES.

1872, ch. 55. P. L. L., (1888) Art. 4, sec. 753.

**774.** For the purpose of preserving order and protecting

property, the Police Commissioners of the City of Baltimore are authorized, upon the request of the President of the Maryland Jockey Club, to detail such force as they may deem sufficient for the preservation of order during any exhibition of the said club, which detailed force shall have the power that the police of the city have as conservators of the peace.

#### REGISTRATION OF VOTERS.

1876, ch. 249. P. L. L., (1888) Art. 4, sec. 754.

**775.** The Board of Police Commissioners for Baltimore City, upon the written request of the Registers of voters, shall detail police officers sufficient to preserve order at the place where the officers of registration in Baltimore City are discharging the duties of their office.

#### SPECIAL FUND.

1886, ch. 459. P. L. L., (1888) Art. 4, sec. 755.

**776.** All sums of money which are now in or which may hereafter come into the hands of the Board of Police Commissioners for the City of Baltimore, under and by virtue of the provisions of existing laws, except such sums as may come into their hands under and by virtue of the provisions of section 747, shall constitute a fund to be known and accounted for as the special fund.

1900, ch. 266.

**776A.** The Board of Police Commissioners of the City of Baltimore, and their successors, shall be the trustees of the special fund hereinafter mentioned. The Treasurer of said Board shall be Treasurer of the fund. He shall before entering upon his duties as Treasurer thereof execute and deliver to said Board a bond in the penal sum of five thousand dollars, to be approved by Comptroller of the City of Baltimore, and conditioned for the faithful discharge of his duties, and that he shall pay over and account for all moneys and property which shall come to his hands as such Treasurer, the expense of such bond, if furnished by a corporation, to be paid out of the special fund. Such trustees shall have charge of and administer such funds, and from time to time invest the same, or any part thereof, as they shall deem most beneficial to said fund, and they are empowered to make all necessary contracts, and take all necessary and proper actions and proceedings in the premises, and to make payments from such fund of salaries granted in pursuance of

this Act, and also salaries now charged on said fund or any part thereof by or under existing laws. The said trustees may, and they are authorized and empowered from time to time to establish such rules and regulations for the disposition, investment, preservation and administration of the special fund as they may deem best. They shall report in detail to the Mayor and City Council annually in the month of October the condition of the special fund, and the items of receipts and disbursements on account of the same.

1900, ch. 266.

**776B.** The moneys, securities and effects of the special fund and all salaries granted and payable from said fund shall be and are exempt from execution and from all process and proceedings to enjoin and recover the same by or on behalf of any creditor or person having or asserting any claims against, or debt or liability, of any sharer of said fund; every person who knowingly or wilfully in anywise procures the making or presentation of any false or fraudulent affidavit or affirmation concerning any claim for a share or payment thereof, shall in every case forfeit a sum not exceeding two hundred dollars, to be sued for and recovered by and in the name of the said trustees, and when recovered to be paid over to and thereupon become a part of the said special fund. Any person who shall wilfully swear falsely in any oath or affirmation in obtaining or procuring any shares or payment thereof, under the provisions of this Act, shall be guilty of perjury.

1900, ch. 266.

**776C.** The said special fund shall consist of:

1. The capital, interest, income, dividends, cash deposit, securities and credit of the special fund now in existence, with additions thereto from time to time of

2. All fines and forfeitures imposed by the Board of Police Commissioners from time to time upon or against any member or members of the police force; and of

3. All rewards, fees, gifts, testimonials and emoluments that may be presented, paid or given to any member of the police force on account of police services, except such as have been or shall be allowed by the Board of Police Commissioners to be retained by the said members, and also all gifts or bequests which may be made to the said special fund, or to the said Police Board as trustees thereof.

4. All lost, abandoned, unclaimed, or stolen money remain-

ing in the possession of the Secretary of the Board of Police Commissioners for the space of one year, and for which there shall be no lawful claimant, and all moneys arising from the sale by the said Secretary or said Board of unclaimed, abandoned, lost or stolen property, and all moneys realized, derived or received from the sale of any condemned, unfit or unserviceable property belonging to or in the possession or under the control of the Police Department, and of

5. All moneys, pay, compensation or salary, or any part thereof, forfeited, deducted or withheld from any member or members of the police force on account of absence for any cause, lost time, sickness or other disability, physical or mental, to be paid monthly by the Treasurer of the Board of Police Commissioners to the special fund.

6. All moneys derived or received from license, certificates, or permits, hereafter authorized by the Mayor and City Council under the general powers granted by Chapter 123, of the Acts of the General Assembly of Maryland, Session 1898, title "City of Baltimore," sub-title "Charter," sub-title "General Powers," sub-title "License," which are required to be issued and collected by the Police Department.

7. Any sum hereafter allowed out of or share of liquor license moneys specially appropriated to said special fund and derived from the granting of license or permission to sell strong or spirituous liquors, ale, wine or beer, and such sum, sums, share or shares shall be paid in to the Treasurer of the special fund by the person or officer having the legal custody thereof.

8. All moneys derived or received from the granting or issuing the permits, or the giving of permission to give public dances, soirees, masked balls, boxing or athletic contests, circus or tent shows, or either of them, in the City of Baltimore; also the sum of five dollars for each and every permit granted by the Board of Police Commissioners under Section 653P, Chapter 343, of the Acts of the General Assembly of Maryland, session of 1890, for the sale of liquors at *bona fide* entertainments.

9. A sum of money equal to but not greater than two per centum of the semi-monthly pay, salary or compensation of each member of the police force entitled to participate in the special fund, which sum shall be deducted every pay day by the Treasurer of the Board of Police Commissioners from their pay, salary or compensation of each and every member of the police force, and the said Treasurer of said Board is hereby authorized, empowered and directed to deduct the said sum of money as aforesaid and forthwith to pay the same to the Treasurer of the trustees of the special fund: *provided*, however.

that it shall be optional with any member of said police force to contribute the said two per centum of his salary as above provided, and participate in the benefits of the special fund; and *provided further*, that no member of said force shall participate in said special fund unless he contributes to said fund as aforesaid.

10. And any and all unexpended balances of appropriation or amounts estimated, levied, raised or appropriated for the payment of salaries or compensation of members of the police force within said City of Baltimore remaining unexpended or unapplied after allowing all claims payable therefrom, said balances to be paid to special fund at any time after the expiration of the year for which the same were made and appropriated.

11. In case the amount derived from the different sources mentioned and included in this section, and from the special fund, without deducting charges for patrol services, police-boat and new station-houses, shall not be sufficient at any time to enable the Board of Police Commissioners to pay in full the salaries which have been or may hereafter be granted, which said salaries shall at all times be a first charge on said funds, it shall be the duty of the said Board each year at the time of making up the departmental estimate to prepare a full and detailed statement of the assets of said special fund, and the amount which is required to pay in full all such salaries, and to present the same to the Mayor and City Council and the Board of Estimates, together with a statement of the amount of money required to enable the said Board of Police Commissioners to pay the said salaries in full. It shall be the duty of the Mayor and City Council and said Board of Estimates to make an appropriation sufficient to provide for each deficiency, and the amount so appropriated shall be included in the tax levy, and the Comptroller shall pay over the money to the treasurer of the special fund.

12. And the said Board of Police Commissioners, as trustees of the special fund, is hereby authorized and empowered to take and hold as trustees of such fund any and all gifts or bequests which may be made to such fund.

1900, ch. 269. 1902, ch. 514. 1906, ch. 267.

**776C,a.** No public dances, soirees, mask balls, boxing or athletic contests, or other public entertainment of like kind, to or for which an admission fee shall be charged, shall be held, given or permitted in the City of Baltimore, except upon con-

dition that a license or permit fee of not less than \$5.00 nor more than \$100.00 shall first be paid to the Secretary of the Board of Police Commissioners who are authorized to demand and receive the same for the benefit of the Special Fund, *provided*, that nothing herein contained shall interfere with any permits authorized, issued or collected by the authority of the Mayor and City Council of Baltimore. Any person or corporation violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$5.00 nor more than \$100.00. Provided, however, that this Act is not intended to apply to regular dancing schools where the art is regularly taught and where dancing parties are given in connection with the scheduled classes on stated nights from 8 to 12 o'clock and where no liquors are sold or dispensed. That all owners or managers of regular dancing academies or places used for instruction in the art of dancing shall pay an annual license fee of five dollars for such privilege.

1900, ch. 266.

**776D.** The Board of Police Commissioners shall have power in its discretion to pay to the widow of any member of said police force within the limits of said city who shall have been killed while in the actual performance of duty, or shall have died in consequence of injuries received while in the discharge of duty an allowance until she remarries. If there be no widow, but a child or children, then to pay such child or children whilst under the age of eighteen years, a sum such as parent would have been entitled to out of said special fund.

1900, ch. 266.

**776E.** Salaries granted under Chapter 494, of the Acts of the General Assembly of Maryland, passed at the January session 1898, and all other salaries granted by special Acts shall be for the natural life of the retired or disabled officer, and shall not be revoked, repealed or diminished except for causes therein provided.

Section 756 of this Article, *ante*.

1900, ch. 266.

**776F.** No member of the police force, whether policeman, officer of police, detective, clerk, turnkey, or in any other capacity, shall be granted, awarded or paid a retiring salary on account of physical or mental disability or diseases, unless certificate of so many of the police surgeons or other com-

petent and reputable physicians as the Board of Police Commissioners may require, which shall set forth the cause, nature and extent of the disability, disease or injury of such member, shall be filed in the office of the Board, and no member shall hereafter be retired upon salary or be salaried, nor shall any money or salary be awarded, granted or paid except as provided in this Chapter, and Chapter 494, of the Acts of the General Assembly of Maryland, passed at the January session, 1898, any other law to the contrary notwithstanding. The said Board of Police Commissioners is authorized and empowered to make and adopt all such rules, orders and regulations as are or may be necessary to carry out and enforce the provisions of this Act.

1886, ch. 450. 1888, ch. 306. P. L. L., (1888) Art. 4, sec. 756. 1912, ch. 567.

777. In addition to the sums of money now authorized by law to be paid out of the fund as above constituted and designated, the said Board of Police Commissioners are empowered whenever, in their opinion, the efficiency of the service may require it, to retire any officer of police, policeman, detective, clerk or turnkey appointed by them; and the said Board of Police Commissioners shall pay to such officers of police, policeman, detective, clerk or turnkey so retired, in monthly instalments, out of said fund, for life, a sum of money equal to one-half the amount of money currently paid monthly to an officer of police, policeman, detective, clerk or turnkey, as provided by law; provided, however, he shall have served faithfully not less than sixteen years as such officer of police, policeman, detective, clerk or turnkey, or shall have been permanently disabled in the discharge of his duty as such officer of police, policeman, detective, clerk or turnkey. In the event at any time of an increase in the pay of officers of police, policeman, detective, clerk or turnkey, every officer of police, policeman, detective, clerk or turnkey who shall have been or shall subsequently be retired by the said Board of Police Commissioners shall be entitled to and the said Board of Police Commissioners shall pay to him in the manner and at and for the length of time provided in this section for the pay of the members of the police force who shall be retired or shall have been retired, a sum equal to one-half of the remuneration of the active members of the Police Department holding the same rank or grade at the time of their retirement, to the end and effect that every retired officer of police, policeman, etc., shall receive the same remuneration as every other retired officer of police, policeman, etc., of like

grade or rank, and no less. The provisions of this section shall extend to and include all members of the police force of Baltimore City heretofore retired by the said Board of Police Commissioners, including those members retired prior to January 1st, 1907, and the said Board of Police Commissioners shall in all cases, before retiring any officer of police, policeman, detective, clerk or turnkey, procure and file among their records a certificate signed by a majority of the physicians appointed by the Board of Police Commissioners as physicians of the Police Department, that the person proposed to be retired has been thoroughly examined by them, and that he is incapable of performing active police duty; and it shall be the duty of any such officer of police, policeman, detective, clerk or turnkey so retired to perform such police duties, and at such times as the Board of Police Commissioners shall deem proper, said terms of service not to exceed seven days during any year, and for such services no extra compensation shall be allowed by said Board; and the said Board of Police Commissioners shall have the power, in their discretion, to suspend payment to any such officer of police, policeman, detective, clerk or turnkey for a term not to exceed three months for the first offense; for the second offense for a term not to exceed six months, and for the third offense any such officer of police, policeman, detective, clerk or turnkey shall be subject to dismissal, upon proof that the said officer of police, policeman, detective, clerk or turnkey is living an improper or immoral life.

*See Section 756, ante.*

1912, ch. 567.

**777-1.** That this Act shall be construed to mean that at all times hereafter the remuneration of every retired member of the police force of Baltimore City shall be one-half the remuneration or pay of those members of the police force in active service occupying a grade or rank similar to the grade or rank occupied by the retired member at the time of his retirement, and that whenever the remuneration for any of the grades or ranks of the active members of the Police Department are increased, the remuneration of those retired members of the Police Department who held the same grade or rank at the time of their retirement that the increased pay applies to, then in that event the remuneration of the retired member of that grade or rank shall be one-half of such remuneration as the increase provides for, and no less.



1906, ch. 456.

**777A.** The said Board of Police Commissioners are hereby authorized, empowered and directed to include the Superintendent of Matrons and the Matrons of the several station-houses of Baltimore City within the provisions of Section 777 of this Article so that they may enjoy the same rights and privileges and benefits, subject to the same limitations and conditions as are therein prescribed and conferred for the retiring of the members of the police force for the said City of Baltimore; *provided*, however, that the said Superintendent of Matrons and the Matrons of the several station-houses of Baltimore City within the provisions of Section 777 of this Article shall pay into the Special Fund the sum of ten dollars (\$10.00) per annum for the next succeeding three years in addition to the regular percentage required under the special pension Act.

1906, ch. 777.

**777B.** The said Board of Police Commissioners are hereby authorized, empowered and directed to include, the Secretary of the Board, and the Assistant Secretary of the Board, within the provisions of Section 777 of this Article, so that they may enjoy the same rights and privileges and benefits subject to the same limitations and conditions, as are therein prescribed and conferred for the retiring of the members of the police force for the said City of Baltimore, *provided*, however, that the Secretary shall first contribute the sum of three hundred dollars, payable in three annual instalments of one hundred dollars each or all cash at his option to the said "Special Fund," heretofore provided for, and the Assistant Secretary to the Board the sum of one hundred and fifty dollars payable in the same manner.

1900, ch. 263.

**777B,a.** The Mayor and City Council of Baltimore shall, upon the request of the Board of Police Commissioners of the City of Baltimore, appropriate annually a sum of money for the relief of disabled and superannuated members of the police force of Baltimore City, and for the relief of widows and children of policemen who may be killed in the discharge of duty, whenever the special fund of said Board of Police Commissioners is not sufficient for the payments authorized by and under the Acts of the General Assembly heretofore passed.

1914, ch. 431.

**777C.** The said Board of Police Commissioners for the City

of Baltimore are hereby authorized, empowered and directed to include the Chief Engineer, two assistant engineers, and fireman in the Police Patrol Boat service, and those who may hereafter be employed in like capacity, within the provisions of section 777 of this Article, so that they may enjoy the same rights, privileges and benefits, subject to the same limitations and conditions as are therein prescribed and conferred for the retiring of members of the police force for the City of Baltimore; provided, however, that any of the persons herein mentioned who were in the service of the Police Department prior to the year 1900, shall pay into the special fund, a sum equivalent to two per centum on the salary paid to them since the year 1900; and any who have been employed since the year 1900, shall pay into the special fund a sum equivalent to two per centum on the salary paid to them since the date of employment, and for the current year and thereafter the regular percentage required under the special pension Act.

P. L. L., (1888) Art. 4, sec. 756A. 1892, ch. 356.

**778.** The Board of Police Commissioners for the City of Baltimore are authorized to pay out of the special fund mentioned in section 776 of this Article, the cost of the maintenance and operation of the police patrol boat recently built, and manned by said Board under authority conferred by law on said Board, including therein the wages of engineers and firemen of said boat; and said Board are authorized to appoint on its force two officers for said boat, who shall be styled commander and first officer, respectively, of the police patrol boat, and shall have the rank and pay of Lieutenants of Police of the City of Baltimore.

1892, ch. 356. P. L. L., (1888) Art. 4, sec. 756B.

**779.** The Board of Police Commissioners for the City of Baltimore are hereby authorized, out of the special fund mentioned in section 776 of this Article, to pay the purchase money of the ground needed for the erection of station-houses hereafter required for the uses of said Board, and also the cost of the erection and repair of said station-houses.

1892, ch. 1. P. L. L., (1888) Art. 4, sec. 756D.

**780.** The Board of Police Commissioners for the City of Baltimore are hereby authorized and directed to pay to James M. Moore, a retired patrolman of the police force of Baltimore City, out of a fund in the hands of said Board of Police Com-

missioners known and accounted for as the special fund, the sum of twelve dollars per week for his life, in lieu of the sum of six dollars per week now paid said James M. Moore by said Board of Police Commissioners, under and by authority of an Act of the General Assembly of Maryland (Chapter 459, Laws of Maryland, eighteen hundred and eighty-six), entitled "An Act to define a fund of money now in the hands, or which under existing laws may come into the hands, of the Board of Police Commissioners for the City of Baltimore, and to provide for its application," approved April 7th, eighteen hundred and eighty-six.

### LONG BRIDGE.

1892, ch. 356. P. L. L., (1888) Art. 4, sec. 756c.

**781.** The jurisdiction and authority of the Board of Police Commissioners for the City of Baltimore is hereby declared to extend to and over the bridge across the Patapsco river, known as the Long Bridge or Light Street Bridge; and said Board and their police force shall on and under said bridge, preserve the public peace, prevent crime, arrest offenders, protect the rights of persons and property, and prevent and remove nuisances; provided, however, that if any crime be actually committed by any person who shall be arrested by said police, the offender shall be delivered to the proper jurisdiction for trial and punishment.

### TELEGRAPH TO HOUSE OF CORRECTION.

1882, ch. 156. P. L. L., (1888) Art. 4, sec. 757.

**782.** The Mayor and City Council of Baltimore shall keep and maintain, at their own proper cost and expense, the line of telegraph from the House of Correction, in Anne Arundel County, to the police headquarters in Baltimore City, transferred to them by the Board of Public Works, and are invested with all the rights and privileges granted to telegraph companies under the General Incorporation Laws of the State in the working and maintenance of this line.

### THIEVES AND PICKPOCKETS.

1864, ch. 38. P. L. L., (1888) Art. 4, sec. 758.

**783.** It shall be the duty of all police officers in Baltimore City to arrest and take before some one of the station house Justices in Baltimore City, all persons whom they shall find in any passenger railway car, or in or about any railway depot in Baltimore City, or in any place of public amusement, or in any

street of the city, who 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 station-house 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 commit or bail him 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 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.

World v. State, 50 Md. 49.

1864, ch. 38. P. L. L., (1888) Art. 4, sec. 759.

**784.** If any person shall be arrested at any place on the line of the Baltimore and Ohio Railroad, or on the line of the Northern Central Railroad, or on the line of the Philadelphia, Wilmington and Baltimore Railroad, or in any of the cars or depots, or at any of the stations on said roads, or on any ferry-boat employed to carry passengers over any part of said road, and within the limits of this State, charged with being a common thief or pickpocket, such person 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 any station house Justice 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 of being a common pickpocket, shall be punished by a fine or imprisonment in the jail of the county for the same time and in the same amount as provided in the preceding section; and all the provisions of the preceding section shall apply to all cases under this section, except so far as altered by this section.

#### PERSONATING POLICEMEN.

1890, ch. 504. P. L. L., (1888) Art. 4, sec. 759A. 1902, ch. 319.

**785.** It shall be a misdemeanor, punishable by imprisonment in the jail of Baltimore City for not more than one year, or by fine of not less than five dollars for any person not a member of the police force of Baltimore City, sheriff or deputy sheriff of Baltimore City, to falsely represent himself as being such member, sheriff or deputy sheriff with fraudulent design upon person or property, or upon any day or at any time to have, use, wear or display, without the authority of the Board of Police Commissioners or Sheriff of Baltimore, any shield, button, wreath, number or any other insignia or emblem of office such as are worn by the police force, sheriff or deputy sheriff of said city.

#### NEW STATION HOUSES.

1892, ch. 185. P. L. L., (1888) Art. 4, sec. 759A.

**786.** The Board of Police Commissioners are authorized and empowered to purchase or lease ground in the twenty-first and twenty-second wards in the City of Baltimore, or either of them, as may be suitable in their judgment for the erection of a station house or houses thereon, and they are hereby authorized and empowered to have erected thereon such station house or houses as they may deem suitable and proper.

1892, ch. 185. P. L. L., (1888) Art. 4, sec. 759B.

**787.** The title to said lot of ground and the improvements thereon, shall be vested in the Mayor and City Council of Baltimore City.

1892, ch. 185. P. L. L., (1888) Art. 4, sec. 759C.

**788.** The purchase of said ground, and the cost of erection of said station-house or station-houses, shall be paid by the said Board of Police Commissioners out of their special fund.

### PRATT FREE LIBRARY.

1882, ch. 181. P. L. L., (1888) Art. 4, sec. 760.

**789.** It shall be the duty of the Mayor to appoint a visitor, who shall, as often as once a year, examine the books and accounts of the Trustees of the "Enoch Pratt Free Library of Baltimore City," and make a report thereof to the Mayor and City Council of Baltimore; and said Mayor and City Council shall, in case of any abuse of their powers by said Trustees or their successors, have the right to resort to the proper courts to enforce the performance of the trust imposed on them.

1900, ch. 221.

**789a.** The Enoch Pratt Free Library of Baltimore City is hereby empowered to receive any gifts, bequests, devise or conveyance of real or personal property, which may be made to it or to its Trustees, and to hold the title to said property, and from time to time convey the same by deed or otherwise, according to the nature thereof, to the Mayor and City Council of Baltimore, for the use of said library, so that the title thereto shall be vested in the said Mayor and City Council of Baltimore, in the like manner and for the same uses as the property mentioned in the original Act incorporating said library, passed at the January Session, 1882, chapter 181, subject to the same management and control.

1882, ch. 181. P. L. L., (1888) Art. 4, sec. 761.

**790.** The real estate and personal property vested in said Mayor and City Council by virtue of the Acts of 1882, chapter 181, authorizing the establishing of the Enoch Pratt Free Library of Baltimore City, and to become vested by future purchases under the provisions of said Act, and the funds and franchises of the "Enoch Pratt Free Library of Baltimore City," shall be exempt from all State and municipal taxes, forever.

## RAILROADS.

*Safety Gates.*

1884, ch. 420. P. L. L., (1888) Art. 4, sec. 763.

**791.** All railroad companies whose tracks cross any street in Baltimore City at grade, are required to place, erect and keep in operation and repair, safety gates at all such street crossings in said city, which said gates shall be closed on the approach of any and every train of cars or locomotive, and kept closed until the said cars or locomotive have completely passed said street crossing.

Textor v. B. & O. R. R. Co., 59 Md. 63. B. & O. R. R. Co. v. Stumpf, 97 Md. 89. Jenkins v. B. & O. R. R. Co., 98 Md. 404. *See also*, N. C. Ry. Co. v. Gilmore, 100 Md. 404.

1884, ch. 420. P. L. L., (1888) Art. 4, sec. 764.

**792.** Any railroad company violating the provisions of the foregoing section shall be liable to a fine of fifty dollars for each crossing, and for every day on which said safety gates are neglected to be erected or operated; said fine to be collected as other fines are now collected.

1902, ch. 615, sec. 1.

**792a.** No railroad company incorporated by or under the authority of this State, or doing business therein, shall issue, sell or receive tickets for passage through the City of Baltimore, or make agreement or agreements with any other railroad company or companies outside of this State to issue or sell tickets for passage over their respective lines through the City of Baltimore, unless there is a coupon on said ticket for passage from a given place in or out of this State to the City of Baltimore, and another coupon on said ticket from the City of Baltimore to a given place in or out of this State.

1902, ch. 615, sec. 2.

**792b.** In issuing or selling all tickets for passage in this State through the City of Baltimore, or making agreements with other railroad companies outside of this State to issue or sell tickets for passage through the City of Baltimore, the said tickets shall permit the holders thereof to a stop-over privilege of at least forty-eight (48) hours in the City of Baltimore; *provided*, that nothing in this section shall prohibit railroad companies from issuing and selling tickets without this stop-over privilege in the City of Baltimore, for special occasions, when the tickets

for passage are good only on excursion trains not on the regular schedule of the railroad.

1902, ch. 615, sec. 3.

**792c.** All passenger trains passing through the City of Baltimore must stop at least three minutes at the principal station of the company operating said trains, and the stoppage of all trains must be announced in such manner as will give passengers ample opportunity to get off.

1902, ch. 615, sec. 4.

**792d.** Any manager, officer, agent, conductor, or employee, who shall violate any of the provisions of this Act shall be guilty of a misdemeanor and upon indictment and conviction thereof shall be fined not less than one hundred dollars, nor more than five hundred dollars for each offense, one-half of said fine to go to the informer.

## HOURS OF LABOR.

1886, ch. 163. P. L. L., (1888) Art. 4, sec. 765.

**793.** No street railway company incorporated under the laws of this State, and no officer, agent or servant of such corporation, and no person or firm owning or operating any line or lines of street railways within the limits of this State, and no agent or servant of such firm or person shall require, permit or suffer its, his or their conductors or drivers, or any of them, or any employees in its, his or their service, or under his, its or their control, to work more than twelve hours during each or any day of twenty-four hours, and shall make no contract or agreement with such employees, or any of them, providing that they or he shall work for more than twelve hours during each or any day of twenty-four hours.

1886, ch. 163. P. L. L., (1888) Art. 4, sec. 766.

**794.** Any corporation which shall in any manner violate any of the provisions of the preceding section shall be deemed to have misused or abused its corporate powers and franchises, and the Attorney-General of the State, upon the application in writing, made by any citizen of this State, accompanied by sufficient proof of such violation, shall forthwith, without further authorization, institute proceedings for the forfeiture of the charter of such corporation, by petition in the name of the State, in the manner provided by the laws of this State for the enforcement



of the forfeiture of the charter of any corporation which has abused or misused its corporate powers or franchises.

1886, ch. 163. P. L. L., (1888) Art. 4, sec. 767.

**795.** If any corporation, or any officer, agent or servant of such corporation, or any person or any firm managing or conducting any street railway in this State, or any agent or servant of such person or firm, shall do any act in violation of the provisions of section 793, it, he or they shall be deemed to have been guilty of a misdemeanor, and shall, on conviction thereof in a court of competent jurisdiction, be fined one hundred dollars for each offense so committed, together with the costs of such prosecution.

### STREET RAILWAY FARES.

1882, ch. 229. P. L. L., (1888) Art. 4, sec. 768. 1900, ch. 313.

**796.** The United Railways and Electric Company of Baltimore, its successors and assigns, shall charge five cents, and no more, as a fare for the conveyance of each passenger over twelve years of age, and three cents, and no more, for each child between the ages of four and twelve years, from any point on any of its lines to any other point on such lines within the City of Baltimore; *provided*, that such company shall give a free transfer, when the same shall be requested, upon the payment of each cash fare, which transfer shall be good at all points of intersection of lines of said railway for a continuous ride, except at such points on said lines where such form a route so as to permit a passenger to return in the same general direction of the line upon which the transfer was issued, the privilege of transfer not to apply to the terminus of any line or route; *provided*, that nothing in this Act shall be construed to affect any of the interests of the Mayor and City Council of Baltimore in the said United Railways and Electric Company of Baltimore; or any of the railways consolidated under the corporate name.

Garrison v. U. Rys. Co., 97 Md. 350.

### PARK TAX.

1882, ch. 229. P. L. L., (1888) Art. 4, sec. 769.

**797.** The said several passenger street railway companies shall pay to the Mayor and City Council of Baltimore, a tax upon their gross receipts of nine per cent., in quarterly instalments, on the first day of January, April, July and October, in each year.

Union Pass. Ry. Co. v. Baltimore, 71 Md. 238. Park Tax Case, 84 Md. 1.

U. Rys. Co. liable for gross receipts tax on all receipts from operation on all public streets.

City v. U. Rys., 107 Md. 251.

The Park fund under the existing laws is to be applied to park purposes only by the Board of Park Commissioners.

Baltimore v. Williams, 124 Md. 502.

P. L. L., (1888) Art. 4, sec. 769A. 1894, ch. 550.

**798.** The Board of Park Commissioners, or any agent or agents of the said Commissioners, authorized in writing by a certificate signed by the president and secretary thereof, shall have authority and power from time to time, and at any time the said Board of Park Commissioners see fit, to make examination of the books, accounts and car fare registers of any or all of the street railway companies in the City of Baltimore, for the purpose of satisfying said Board of Park Commissioners that returns of the "park tax" are fairly and correctly made by said companies, and by each and every one of them; and any street railway company whose officers shall neglect or refuse, on demand of said Board of Park Commissioners, to permit the said Commissioners or any agent or agents of said Commissioners authorized in writing as above prescribed, to at any time inspect its said books, accounts and carfare registers or any of them, shall forfeit and pay a fine of one hundred dollars for each and every day it shall so neglect or refuse to comply with such demand; said penalty to be collected by an action of debt in the name of the Mayor and City Council of Baltimore.

Park Tax Case, 84 Md. 1.

P. L. L., (1888) Art. 4, sec. 769B. 1894, ch. 550.

**799.** On default of any of the street railway companies operating street railway lines within the present city limits, in the payment of the park tax of nine per centum of the gross receipts from all street railway lines within the present city limits, for the term of ten days after the expiration of any quarter, the company or companies so in default shall pay a penalty at the rate of thirty per cent. per annum, on the amount due from it, for the time it shall continue in default; said penalty to be recovered by an action of debt, in the name of the Mayor and City Council of Baltimore.

Park Tax Case, 84 Md. 1.

P. L. L., (1888) Art. 4, sec. 769C. 1894, ch. 550.

**800.** If any officer, agent or employee of any street railway

company within the City of Baltimore shall knowingly, wilfully and corruptly certify to the Board of Park Commissioners a less sum than is actually due as the park tax of nine per centum of the gross receipts from the lines of such company within the city limits, he shall be guilty of a misdemeanor, and on conviction thereof shall suffer imprisonment for not more than six months in jail, or pay a fine of not more than one thousand dollars, or both, in the discretion of the Court.

Park Tax Case, 84 Md. 1.

## RAILWAY EASEMENTS IN ANNEX.

1906, ch. 566, sec. 1.

800a. In the event that the existing street railway franchises, easements, interests or rights of the United Railways and Electric Company of Baltimore in any of the roads within the limits of that part of Baltimore City known as the Annex as to which roads the said Street Railway Company is not legally liable to the payment of the park tax hereinafter mentioned or in any part or parts of said roads or any of them, shall in any manner, be acquired by the Mayor and City Council of Baltimore pursuant to the authority conferred upon it by Chapter 274 of the Acts of the General Assembly of Maryland for the year 1904 and ordinance of the Mayor and City Council of Baltimore No. 216, approved March 11, 1905, or by any other laws or ordinances relating to the powers and duties of the Commissioners for Opening Streets under said Acts, and application or applications shall afterwards be made by the United Railways and Electric Company of Baltimore, to the Mayor and City Council of Baltimore, subject to the provisions of sections 7-12, both inclusive, and section 37 of Article 4, entitled "City of Baltimore," of the Code of Public Local Laws of Maryland, for the franchise or right to use the beds of said roads, or any of them, for its railway lines, and the ordinance or ordinances, making said application, or applications, shall be duly passed by the Mayor and City Council of Baltimore, then with the consent of the Board of Estimates, expressed in said ordinance or ordinances, the park tax of nine per centum upon the gross receipts of passenger street railway companies in the City of Baltimore, now prescribed and regulated by sections 797-800 both inclusive, of Article 4, entitled "City of Baltimore," of the Code of Public Local Laws of Maryland, shall as to the bed or beds of the public highway or highways covered by said ordinance or ordinances, and for the period of eleven years accounting from the date, or respective dates of passage of said ordinance or ordinances, be

payable and paid by the said United Railways and Electric Company of Baltimore, its successors and assigns, to the Mayor and City Council of Baltimore as follows: For the first three years of said period of eleven years the gross receipts of said company from its lines on the bed or beds of the public highway or highways covered by said ordinance or ordinances, shall be exempt from said park tax as at present, for the fourth year of said period of eleven years they shall be subject to said park tax at the rate of one per centum, for the fifth year to said park tax at the rate of two per centum, for the sixth year to said park tax at the rate of three per centum, for the seventh year to said park tax at the rate of four per centum, for the eighth year to said park tax at the rate of five per centum, for the ninth year to said park tax at the rate of six per centum, for the tenth year to said park tax at the rate of seven per centum, for the eleventh year to said park tax at the rate of eight per centum, and thereafter to said park tax at the general rate of nine per centum each year, as now prescribed and regulated as aforesaid by sections 797-800, both inclusive, of Article 4, entitled "City of Baltimore," of the Code of Public Local Laws of Maryland, or at such other rate or rates as may be hereafter prescribed by law; provided, however, that the franchise or right so granted to the United Railways and Electric Company of Baltimore, its successors and assigns in said roads, or any of them, may in the discretion of the Board of Estimates so far as the same may be now perpetual, be in perpetuity; provided, however, that nothing herein shall be construed to make perpetual, or to grant in perpetuity, any franchise or right whatsoever (as a franchise or right in perpetuity) which heretofore has not been owned or enjoyed by the said United Railways and Electric Company of Baltimore as and for a right perpetual, or franchise or right in perpetuity.

1906, ch. 566, sec. 2.

800h. In view of the fact that the beds or parts of the beds, of said roads, or some of them are now occupied by the United Railways and Electric Company of Baltimore, and its rights in such roadbeds, or parts of roadbeds, are proposed to be acquired by the Mayor and City Council of Baltimore for the sole purpose of securing for the public the unconditional use thereof as public highways, the Board of Estimates is hereby authorized, in its discretion, after the acquisition of said roadbeds, or parts of roadbeds, by the Mayor and City Council of Baltimore, should the United Railways and Electric Company of Baltimore, its successor and assigns apply for the franchise or right of using

any of said roadbeds, or part of roadbeds, for its railway lines, to fix the compensation or compensations, to be paid therefor, without reference to any other application, or applications, for the same franchises or rights by any other person or corporation, and free from the obligation cast upon it by section 37 of Article 4, entitled "City of Baltimore," of the Code of Public Local Laws of Maryland, to fix the compensation to the Mayor and City Council of Baltimore in such cases at the largest amount that it may be able by advertisements or otherwise to obtain for the franchise or right; provided, however, that said compensation, or compensations, shall in no case be fixed by said Board of Estimates at a lower sum or sums than the sum or sums which the Mayor and City Council of Baltimore shall have paid, or become obliged to pay, unto said Company, whether as the result of condemnation proceedings or otherwise, under the provisions of Chapter 274 of the Act of the General Assembly of Maryland for the year 1904, for the purpose of acquiring the respective street railway franchises, easements, interests or rights now or hereafter possessed or enjoyed by said Company in said respective roadbeds, or parts of roadbeds as to which said application or applications for new franchises or rights shall or may be made by said Company as aforesaid.

### RAILWAY AREA PAVING.

1914, ch. 37.

**800c.** That there is hereby imposed upon every corporation occupying with railroad or street railway track or tracks any portion of any public highway in Baltimore City which shall hereafter be paved or repaved with improved paving by the Paving Commission of Baltimore City, the State Roads Commission, the City Engineer, the Annex Improvement Commission, or any other public commission, board or agency, the obligation to pay for the cost of such paving within the space covered by any such railroad or railway track or tracks and for a distance of two feet outside of each outer rail of such track or tracks. The cost of the paving, as herein used, shall be construed to include the cost of the removal of the old cobble or other paving, and all excavation, ballasting, grading, concreting and other work involved in such paving. This obligation shall apply whether the entire street be paved with the same kind of improved paving or whether one kind be put outside of the railway area and a different kind within the railway area, provided, no more expensive material or construction be used in the railway area than is reasonably necessary, in the judgment of the Paving Commis-

sion or other agency doing such paving, for the proper construction of the paving of the entire street. The Paving Commission, or other public agency, having in charge the construction of such paving, may permit said corporation to do any part of the work within the railway area which said Commission or other agency may consider can be done by said corporation without detriment to the public welfare or the proper progress of the work. In order to give such corporation an opportunity to do any part or parts of the work which it may be authorized to do by said Commission or other agency, the said Commission or other agency, before beginning work upon any portion of a street occupied by a railroad or railway track or tracks, shall give to the corporation owning, operating and using such track or tracks reasonable notice of its intention to do such work and of the time when it proposes to begin such work on such street. The said Commission or other agency, shall keep an accurate account of the cost of the work, the obligation to pay for which is imposed by this Act upon any corporation.

The obligation hereby imposed shall be a lien upon the property of such corporation to the same extent as ordinary taxes against the property of such corporation, and may be enforced and collected by the same remedies used for the enforcement and collection of taxes, and payment thereof may be enforced by the Mayor and City Council of Baltimore by a suit at law or by any other remedy provided by any law or ordinance, and appropriate for said purpose. All said remedies shall be cumulative. The city, through its Paving Commission, or other Commission, board or agency doing such paving, may pay the cost of the paving in the railway or railroad area in the first instance, and in that event the said cost when paid by the railway or railroad corporation shall be credited to the fund from which the cost of said paving shall have been paid in the first instance; and the amount of the cost shall be due and payable for the work done in the railway area in any street or portion of a street embraced in each separate contract or separate undertaking of construction by said Paving Commission or other agency, upon the completion of such work. Provided, that no corporation shall be required to pay under or by virtue of the provisions of this Act more than \$100,000 during any one year. If the cost of the work for which any corporation is made liable under this Act shall exceed \$100,000 in any one year, the excess above \$100,000 shall not be due and payable until the following year; the intent of this proviso being that the entire obligation imposed by this Act shall be paid by every corporation upon which it is

imposed, but that no corporation shall be called on to pay more than \$100,000 thereof in any one year.

1914, ch. 37.

**800d.** That nothing herein contained shall be construed to relieve any street railway or railroad corporation of any obligation existing or imposed upon it by any law or ordinance prior to the passage of this Act.

### PROHIBITING TRACKS ON CERTAIN STREETS.

P. L. L. (1888) Art. 4, sec. 769A. 1892, ch. 115. 1894, ch. 69. 1894, ch. 150. 1894, ch. 439. 1896, ch. 74. 1896, ch. 403. 1896, ch. 405. 1900, ch. 149. 1902, ch. 558. 1904, ch. 35. 1906, ch. 253.

**801.** It shall not be lawful for any person or corporation to lay any railway track upon Mount Royal avenue between Guilford and North avenues, or upon Cathedral street between Saratoga street and Mount Royal avenue, or upon Saint Paul street from Baltimore street northerly to Huntingdon avenue, or upon Calvert street from Read street northerly to the city limits, or upon Gough street from Bond street easterly to Patterson Park avenue, or upon Broadway from Baltimore street north to North avenue, except upon the streets where tracks are now laid, or upon Caroline street between Preston street and North avenue, or upon Eager street between Park and Wolfe streets, or upon the old York road from its intersection with the York Turnpike to Willow avenue, in the City and County of Baltimore, or upon McCulloh street between Eutaw street and North avenue, or upon Baltimore street between Patterson Park avenue and Canton street, or on Barclay street, or on Biddle street between Broadway and Maryland avenue, and when the tracks of the Lake Roland Elevated Railway Company shall have been removed from Oak Street, Hampden street, Cedar avenue, Elm avenue and Merryman's lane, in the City of Baltimore, thereafter it shall not be lawful for any person or corporation to lay any railway tracks upon the said portion of said streets so occupied by the said Lake Roland Elevated Railway Company, or upon Hanover street between Lee street in the City of Baltimore and the southern extremity of said street which terminates at Spring Garden harbor, or upon any of the streets, lanes, avenues and highways above mentioned, without the consent of the General Assembly of Maryland; provided, that this sub-division of this Article shall not restrict in any way the right of any passenger railway now incorporated, or that may hereafter be incorporated, to cross said streets where such railway company shall be

authorized by the Mayor and City Council of Baltimore to use any street or avenue opening into or crossing said beforementioned streets or highways. The maintenance or laying of any tracks for street railways or other purposes on Cedar avenue, in the City of Baltimore, be and is hereby forbidden. And it shall not be lawful for any person or corporation to lay any railway tracks upon Chase street, between Broadway and Maryland avenue, nor upon Evergreen Terrace, between Fulton avenue and Orem lane or avenue, in the City of Baltimore, without the consent of the General Assembly of Maryland.

This section has been modified to conform to provisions of Acts 1900, ch. 149; 1902, ch. 558; 1904, ch. 35 and 1906, ch. 253.

1900, ch. 746. 1902, ch. 99.

**801a.** It shall not be lawful for any person or corporation to lay any railway tracks upon Lombard street, between Patterson Park avenue and Excter street, in the City of Baltimore, without the consent of the General Assembly of Maryland; provided, that this Act shall not restrict in any way the right of any passenger railway company now incorporated, or that may hereafter be incorporated, to cross said Lombard street, when such railway company shall be authorized by the Mayor and City Council of Baltimore to use any street or avenue opening into said Lombard street; and provided further, that nothing herein contained shall be construed to impair or limit in any manner the powers and rights of the Mayor and City Council of Baltimore to regulate the use in all respects of said street under the provisions of this Article.

The Acts of 1900, ch. 746 and 1902, ch. 99, are practically identical in considering the part of Lombard street affected by both Acts.

1910, ch. 111.

**801b.** That it shall not be lawful for any person or corporation to lay any railroad tracks upon Auchentoroly terrace, between Orem lane or avenue and Pennsylvania avenue or Reisterstown turnpike, in the City of Baltimore, without the consent of the General Assembly of Maryland.

1910, ch. 131.

**801c.** That the maintenance or laying of any tracks for street railway or other purposes on Charles street, between Center and Read streets, and on Monument street, between Park avenue and St. Paul street, in the City of Baltimore, be and is hereby forbidden.



1910, ch. 569.

**801d.** That the maintenance or laying of any tracks for street railway or other purposes on Biddle street, between Calvert street and Maryland avenue, in the City of Baltimore, be and the same is hereby forbidden; provided, however, that nothing in this Act shall be construed to interfere with the maintenance of tracks already laid in said City of Baltimore on streets crossing said Biddle street between said Calvert street and Maryland avenue.

## RECORDS.

1886, ch. 289. P. L. L., (1888) Art. 4, sec. 770.

**802.** It shall be the duty of the Clerk of the Superior Court of Baltimore City to formulate and prepare a new plan or system for the indexing of all deeds, conveyances and other papers required by law to be recorded among the land records in his office, and submit the same to the Supreme Bench of Baltimore City for its approval.

1886, ch. 289. P. L. L., (1888) Art. 4, sec. 771.

**803.** Upon the adoption and approval of the plan or system of indexing authorized by the preceding section, the Clerk of the Superior Court of Baltimore City is authorized and directed to make and prepare for use in his said office, a new index of all land records and conveyances in his keeping, upon the plan or system so adopted and approved, in books suitable for the purpose; and all deeds and conveyances hereafter recorded among said land records, shall be indexed upon the plan or system aforesaid.

1886, ch. 289. P. L. L., (1888) Art. 4, sec. 772.

**804.** Whenever, from age or wear, any of the record books in the keeping of the Clerk of the Superior Court of Baltimore City shall be in danger of destruction or obliteration, it shall be the duty of the Clerk of said Court, when required so to do by the Supreme Bench of said city, to renew any such record book by transcribing the same into new books.

1886, ch. 289. P. L. L., (1888) Art. 4, sec. 773.

**805.** The cost of making and preparing such new indexes and records shall be paid out of the fees collected by the Clerk of the Superior Court aforesaid.

## SABBATH.

1886, ch. 433. P. L. L., (1888) Art. 4, sec. 774.

**806.** No vehicle of any description shall be permitted to carry ice upon the streets or highways of Baltimore City, for the purpose of selling the same, on the Sabbath Day, commonly called Sunday.

1886, ch. 433. P. L. L., (1888) Art. 4, sec. 775.

**807.** If any person or corporation be found guilty of causing or in any way contributing to the violation of the preceding section, he or it shall be subjected to a fine of not more than fifty dollars, in the discretion of the courts.

## SCHOOLS.

*Intestates' Estates.*

P. L. L., (1860) Art. 4, sec. 829. P. L. L., (1888) Art. 4, sec. 781.

**808.** 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 School Commissioners.

Savings Bank v. Weeks, 103 Md. 601.

P. L. L., (1860) Art. 4, sec. 830. P. L. L., (1888) Art. 4, sec. 782.

**809.** 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 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 Board of School Commissioners.

Charlotte Hall v. Greenwell, 4 G & J. 407. Thomas v. Visitors of Frederick County School, 7 G. & J. 369.

Requisites necessary to entitle the city or State to claim funds.

State v. Gittings, 125 Md. —.

P. L. L., (1860) Art. 4, sec. 831. P. L. L., (1888) Art. 4, sec. 783.

**810.** They shall, upon passing an order directing such payment, require from the Treasurer of the Board of School Com-

missioners, or any other officer who may be appointed by the said Board of School Commissioners or the Mayor and City Council of said city to receive such funds, a receipt and release to the administrator for the same.

P. L. L., (1860) Art. 4, sec. 832. P. L. L., (1888) Art. 4, sec. 784.

**811.** The release shall contain an obligation that the said funds shall be applied by the Board of School Commissioners 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.

P. L. L., (1860) Art. 4, sec. 833. P. L. L., (1888) Art. 4, sec. 785.

**812.** If the estate of an intestate shall be paid to the Board of School Commissioners 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 School Commissioners 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 representatives out of the school fund under their direction.

P. L. L., (1860) Art. 4, sec. 834. P. L. L., (1888) Art. 4, sec. 786.

**813.** Nothing contained in this sub-division of this Article shall be construed to interfere with or affect the rights vested in the Charitable Marine Society of Baltimore.

## JOHNS HOPKINS UNIVERSITY.

1876, ch. 84. P. L. L., (1888) Art. 4, sec. 787.

**814.** The Johns Hopkins University, a corporation duly incorporated by certificate recorded in the office of the Clerk of the Circuit Court for Baltimore County shall have power to establish branches of the said university in the City of Baltimore, to hold, or to purchase and hold, all property in said city, needed for the successful conducting of the branches of the said university in said city, and to keep and maintain a principal office in said city for the conduct of the business of the said university.

1876, ch. 84. P. L. L., (1888) Art. 4, sec. 789.

**815.** The said Johns Hopkins University shall have power to admit students of the said university who shall merit distinction to the office and profession of surgeon, or to the degree of doctor of medicine, or of doctor of laws, or of bachelor or master of arts; to grant to students in such university such certificates of

proficiency and attainments in any special study as the said university may see proper to confer; and to grant the honorary degrees of doctor of laws, doctor of medicine, and master of arts, or such other degrees as may be proper, to any person who may merit such distinction, whether such person be a student of such university or not.

## McDONOGH EDUCATIONAL FUND AND INSTITUTE AND OTHER INSTITUTIONS.

1888, ch. 102. P. L. L., (1888) Art. 4, sec. 789.

**816.** The Mayor and City Council of Baltimore is authorized, upon the transfer and surrender to it, by the Board of Trustees of the McDonogh Educational Fund and Institute, of the city stock or certificates of indebtedness, in which the said educational fund is now, under the city ordinances, invested, in consideration of such transfer and surrender, to issue and deliver to the said Board of Trustees, the stock or certificates of indebtedness of the Mayor and City Council of Baltimore, to the amount of one million dollars, in the form prescribed by law for such certificates, redeemable in the year of our Lord, nineteen hundred and thirty-eight, and bearing interest, payable quarterly, at the rate of five per cent. per annum. To pass an ordinance providing for the said transfer and surrender of said city stock or certificates of indebtedness, in which the educational fund derived under the will of John McDonogh, is now invested, and for the issue and delivery to the Trustees of the McDonogh Educational Fund and Institute, in consideration of such transfer of said city stock or certificates of indebtedness of the Mayor and City Council of Baltimore, to the amount of one million dollars. Before the ordinance which the Mayor and City Council of Baltimore is authorized and empowered to pass, shall take effect, it shall be approved by a majority of the votes of the legal voters of the said city, cast at the time and place to be appointed by said ordinance for submitting the same to the legal voters of said city, as required by section 7 of Article XI, of the Constitution of Maryland. To appropriate annually for the Baltimore Manual Labor School for Indigent Boys, sum or sums of money not exceeding fifteen hundred dollars per annum. Upon transfer and surrender to it, by the Peabody Institute of the City of Baltimore, of six per cent. city stock, to an amount not exceeding five hundred thousand dollars, to issue and deliver to the said Peabody Institute, in consideration of such transfer and surrender, city stock in the form prescribed for such certificates by the Baltimore City Code of eighteen hundred and seventy-nine,

redeemable in the year of our Lord nineteen hundred and fifty, and bearing interest at the rate of not more than five per cent. per annum, payable quarterly; and to pass an ordinance providing for such transfer of said stock, and for the issue and delivery to the said Peabody Institute, in consideration of such transfer and surrender of stock or certificates of indebtedness of the Mayor and City Council of Baltimore, to the amount of not over five hundred thousand dollars, as authorized above, bearing interest at not more than five per cent. per annum, payable quarterly.

### TEXT BOOK UPON CIVIL GOVERNMENT.

1898, ch. 520.

**816a.** The State Board of Education and the Board of Public School Commissioners of Baltimore City are hereby required to furnish the public schools of this State with a text-book upon civil government in addition to the text-books now furnished them, and shall be included in the branches of study now taught in the public schools, and shall be taught to and be studied by all pupils whose capacity will admit of it, in all departments of the public schools of this State and in all educational institutions supported wholly or in part by money from the State.

### SEWERS.

P. L. L., (1860) Art. 4, sec. 836. P. L. L., (1888) Art. 4, sec. 793.

**817.** If any person shall wilfully stop up, obstruct, injure or damage the passage of the waters of any of the common or private sewers or drains, he shall be fined a sum not exceeding one hundred dollars, to be collected as other fines are collected.

1868, ch. 181. P. L. L., (1888) Art. 4, sec. 794.

**818.** The Mayor and City Council of Baltimore shall have full power to provide for constructing, opening, enlarging or straightening, subject to the provisions hereinbefore contained as to the Board of Public Improvements and the Board of Estimates, any sewer or drain, public or private, through any private property, upon giving thirty days' notice in writing to the owner or agent of said private property, or to one of them, if more than one, leaving such notice at the usual place of abode of such owner or agent, or at the usual place of abode of one of them, if more than one, or if none of said parties live in the City of Baltimore, by setting up said notice on the land or premises; to provide for ascertaining what amount of actual benefit will thereby accrue to the owner or possessor of any ground or improvements within

or adjoining 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 benefited, 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 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.

1868, ch. 181. P. L. L., (1888) Art. 4, sec. 795.

**819.** The amount of benefits assessed on any property for constructing, opening, enlarging or straightening any sewer in any street, lane or alley, or through any private property, 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.

**820.** No private sewer or drain shall be constructed, altered, or repaired without a permit from the City Engineer.

Sec. 820 is modified by Act 1906, ch. 144. *See ante*, Sec. 6, sub-division "Sewers," page 28.

1868, ch. 181. P. L. L., (1888) Art. 4, sec. 796. 1906, ch. 103.

**821.** Before the Mayor and City Council of Baltimore shall pass any ordinance under this Article relating to the constructing, opening, enlarging or straightening any sewer through any private street, lane or alley, or through any private property, 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 thirty days.

1868, ch. 181. P. L. L., (1888) Art. 4, sec. 797.

**822.** 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.

1868, ch. 181. P. L. L., (1888) Art. 4, sec. 798.

**823.** Should the Commissioners appointed by the Mayor and City Council of Baltimore assess any part of the expense and damage incurred in the construction, opening, enlarging or straightening any sewer in the city, upon the Mayor and City Council of Baltimore, the said Mayor and City Council of Baltimore 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.

1882, ch. 406. 1888, ch. 131. P. L. L., (1888) Art. 4, sec. 799.

**824.** The Mayor and City Council of Baltimore are authorized to issue the stock of the City of Baltimore for the amount of five millions of dollars; said stock to be issued from time to time as the Mayor and City Council of Baltimore shall by ordinance prescribe; the proceeds of said stock to be used for the opening, widening, paving and repaving of streets, the constructing of sewers, the supplying of school buildings in the City of Baltimore, and the improvement of the public parks. The said stock shall be in such amounts, payable at such time or times, and shall bear such rate of interest as the said Mayor and City Council of Baltimore shall provide by ordinance; but the said stock shall

not be issued unless the ordinance which the Mayor and City Council of Baltimore is hereby authorized to enact shall be approved by a majority of the votes of the legal voters of said city, cast at the time and place to be appointed by said ordinance in the provision for submitting the same to the legal voters of said city, as required by section 7 of Article XI, of the Constitution of the State.

### NEW SEWERAGE SYSTEM.

1901, ch. 19. 1904, ch. 349, sec. 1.

**824a.** The Mayor of the City of Baltimore is hereby authorized to appoint in the manner prescribed by section 25 of Article 4, entitled "City of Baltimore," of the Public Local Laws of Maryland, and subject to the condition that three appointees shall be members of the minority party within the meaning of section 30 of said Article, six capable and upright citizens of the City of Baltimore, who, together with the Mayor himself *ex officio*, shall constitute a special commission to be known as the Sewerage Commission of the City of Baltimore, and who shall continue in office from year to year until the work of said commission under this Act has been fully and finally completed in every respect. If, however, the Second Branch of the City Council of the City of Baltimore shall reject three several and successive nominations by the Mayor to any position on said commission, he shall be empowered to make an appointment thereto without its confirmation. No municipal official or other officer of the Mayor and City Council of Baltimore, whether holding a paid or an unpaid office or position under the said corporation shall be eligible for appointment to said commission, and all persons appointed to said commission shall qualify and be subject to removal by the Mayor, except that there shall be no removal at any time save for cause after charges preferred, as prescribed by said Section 25 of Article 4, entitled "City of Baltimore," of the Public Local Laws of Maryland. Any member of said commission may at any time resign therefrom by tendering his resignation in writing to the Mayor, and any vacancy in said commission occasioned by the resignation, removal, death or permanent absence from this State of the incumbent, or by supervening incapacity upon his part, whether physical or mental, to discharge his duties, or by any other cause operating such a vacancy, either actually or in effect, shall be filled by the Mayor in the manner and subject to all the conditions as to minority representation, qualification and removal hereinbefore provided for as to original appointees to said com-



mission. All the members of said commission shall receive such compensation as the Mayor and City Council shall by ordinance provide, not, however, to exceed for the chairman the sum of three thousand dollars and for the other members of said commission a sum not exceeding fifteen hundred dollars each; and a majority of said members shall be a lawful quorum for the transaction of business; and said commission shall be taken as superseding in every respect the Sewerage Commission of the City of Baltimore (assuming that said last mentioned commission is not already *functus officio*) appointed under Resolution No. 189 of the Mayor and City Council of Baltimore, approved May 25, 1893, and continued (or attempted to be continued) by the terms of ordinance No. 2 of the Mayor and City Council of Baltimore, approved November 14, 1899; and shall be entitled to the possession and custody of all maps, plats, blue prints, sketches, books, papers, documents, writings, letters and chattels in the possession of said last mentioned commission; and, so soon as the appointed members of said commission shall be qualified, they shall, with the Mayor acting as a member of said commission *ex officio*, organize by the election of one of the members of said commission as chairman of said commission, who shall be removable at pleasure by said commission, and shall receive such compensation as it may determine, not exceeding the sum of three thousand dollars per annum, and shall preside over the meetings of said commission and perform such other duties as are imposed upon him by this Act, or as may be assigned to him by said commission, and by the election of a secretary, not a member of said commission, who shall be removable at pleasure by said commission, and shall receive such compensation as it may determine, not exceeding the sum of twenty-five hundred dollars per annum, and shall enter into a well-bound book and carefully preserve neat, legible and accurate minutes of all meetings of said commission and perform such other duties as usually appertain to the office of secretary of a private corporation or as are imposed upon him by this Act or as may be assigned to him by said commission. All sessions or meetings of said commission shall be open and public and all its records shall be public records, and it shall annually make to the Mayor a detailed report of all its official transactions and expenditures.

1904, ch. 349, sec. 2.

**824b.** Said commission shall be charged with the duty of projecting, constructing and establishing a sewerage system for the collection, transmission and disposal of the house and other sewage and drainage of the City of Baltimore, including, either

as a combined or separate feature of said system the collection, transmission and disposal of storm and ground water, respectively, and shall be clothed with each and every and all powers which, by anything short of a palpably forced construction, may be held to be necessary or proper for these purposes, or either of them, among which powers shall be the following, that is to say:

1. To make all such preliminary investigations and to do all such preliminary work as should, in its judgment, precede the actual projection, construction and establishment of said system of sewerage.

2. To project and adopt such a system of sewerage as it may deem best calculated to promote the objects of this Act.

3. To construct and establish all such local, district, lateral, intercepting, outfall or other sewers, and all such conduits, drains and pumping or other plants, and all such buildings, structures, works, apparatus or agencies, and to lay all such mains and pipes and to create or use, or create and use, all such instrumentalities and means, within the City of Baltimore, or any counties of the State, including submerged as well as other lands, as it may deem expedient for carrying said system of sewerage, projected and adopted as aforesaid into full effect. And said commission is hereby specifically empowered to lay or construct, and the Mayor and City Council of Baltimore to maintain, without compensation to the State, any part or parts of said system of sewerage, or of its works or appurtenances, over or upon any part or parts of the bed of the Patapsco river or its branches, or of any land covered by any of the navigable waters of this State, the title to which is held by this State, and if the same be deemed advisable by the said commission, the Governor of Maryland is hereby authorized and directed, upon the application of the said commission, to execute, acknowledge and deliver to the Mayor and City Council of Baltimore such deed or deeds as may be proper for the purpose of fully confirming this grant.

4. To incorporate with said system of sewerage or otherwise utilize for the purpose of this Act, so far as it may deem expedient, any or all existing public sewers or drains, including storm water sewers and drains, in the City of Baltimore, and any and all of their appurtenances, either in their present condition or with such repairs, modifications or changes as said commission may see fit to make, and to condemn, close up, abolish or destroy, in its discretion, any or all such existing public sewers and drains, or to alter their functions, or to increase their burdens, as it may think best.

5. To appoint or employ a chief engineer and such other professional or technical advisers and experts, and such agents, assistants, clerks, employes and laborers, skilled or unskilled, of all kinds, as it may deem requisite, for the due and proper execution of the duties devolved upon it by this Act, or any of them, and to fix their respective compensations and to remove or discharge them at pleasure (except such highly trained, experienced or skilled individuals as it may agree to appoint or employ upon special terms for definite and fixed periods of time), and to exact from them such indemnity bonds for the proper performance of their respective duties, as it may deem proper.

6. To frame, promulgate and enforce such reasonable rules and regulations for its own government and for the supervision, protection, management and conduct of its work as it may believe expedient.

7. To make and enter in the name and on behalf of the Mayor and City Council of Baltimore any and all contracts, agreements or stipulations germane to the scope of its duties and powers under this Act.

8. To purchase, hire or otherwise lawfully obtain the use of all such machinery, tools, implements, appliances, supplies, materials and working agencies as it may need for its purposes; provided, however, that this enumeration of special powers shall not be construed as restricting in any degree the scope of the general powers hereinbefore conferred upon said commission; and provided, further, that said commission shall have no authority to construct and establish any sewerage system involving the discharge of sewage, as distinguished from storm water or ground drainage, into the Chesapeake Bay or any of its tributaries.

Provisions in contracts making engineer arbiter binding.

Baltimore v. Talbott, 120 Md. 354.

1904, ch. 349, sec. 3.

**824c.** The Mayor and City Council of Baltimore acting by and through the agency of said commission, may acquire by gift, purchase, lease, whatever the duration of the lease, or other like methods of acquisition, or by condemnation, any land or property situated wholly or partly within the City of Baltimore or within any of the counties of this State, or any interest, franchise, easement, right or privilege therein which may be required for the purpose of constructing and establishing said sewerage system, or any part or parts thereof, or that may be needed for the workings of said system when established, and when

and so often as resort shall be had to condemnation proceedings, the procedure shall be that marked out by sections 360 to 365, inclusive, of Article 23 of the Code of Public General Laws of Maryland, relating to condemnation of property by corporations; or so far as the acquisition by condemnation of any such land or property situated wholly or partly within the City of Baltimore, or any interest, franchise, easement, right or privilege therein is concerned, may in any case or cases, at the option of said commission, be such as may now or at any time hereafter be provided for by any lawful ordinance or ordinances of the Mayor and City Council of Baltimore, adopted pursuant to the powers conferred upon it by section 6 of Article 4, entitled "City of Baltimore," of the Code of Public Local Laws of Maryland, title "General Powers," sub-title "Condemnation of Property," for the condemnation of any land or property or interest therein, situated wholly or partly within the City of Baltimore, or such as may be provided for the very purpose by any lawful ordinance or ordinances of the Mayor and City Council of Baltimore; which said ordinance or ordinances the Mayor and City Council of Baltimore is hereby fully authorized to adopt; provided, provision is made therein for reasonable notice to the owner or owners, and for appeals to the Baltimore City Court, including the right of appeal to the Court of Appeals, by any person interested, including the Mayor and City Council of Baltimore, from the decision of any Commissioners or other persons appointed to value any such land or property, or interest, franchise, easement, right or privilege therein.

Provision in a contract requiring contractor to exhibit receipts from a sub-contractor does not give the sub-contractor a claim against the city.

Lombard Governor Company v. Baltimore, 121 Md. 304.

1904, ch. 349, sec. 4.

**824d.** All individuals and corporations lawfully having buildings, structures, works, conduits, mains, pipes, tracks or other physical obstructions in, over or under the public lanes, avenues, streets, alleys or highways of the City of Baltimore, which shall block or impede the progress of said sewerage system, when in process of construction and establishment, shall, upon reasonable notice from said commission, promptly so shift, adjust, accommodate or remove the same, at their own cost and expense, as to fully meet the exigencies occasioning such notice; and if any such individual or corporation shall refuse, neglect or fail after such reasonable notice to discharge any duty cast upon him or it by this section, he or it shall, in addition to but not in substitution for any other remedy or remedies that said

commission or the Mayor and City Council of Baltimore may have in the premises, be subject to a fine of one hundred dollars for each and every offense, and also to an additional fine of fifty dollars a day for every day that said refusal, neglect or failure shall continue; said fines to be collected as other fines in the City of Baltimore are collected; and should the exigencies of said commission and its work in any case involve a taking, in the constitutional sense, of the franchise or right in the exercise of which such obstruction had its origin, the Mayor and City Council of Baltimore, acting by and through the agency of said commission, shall be empowered to secure the condemnation of such franchise or right in the manner provided for in section 3 of this Act. The preceding provisions of this section shall likewise be applicable to any such obstruction in, over or under the public highways of any county of this State into which said sewerage system shall extend. The duty and cost of adjusting or removing private drains and sewers in Baltimore City which shall block or impede the progress of said sewerage system when in progress of construction and establishment, shall rest upon and be borne by the Mayor and City Council of Baltimore exclusively.

1904, ch. 349, sec. 5. 1906, ch. 132.

824e. All work done or supplies or materials purchased in carrying out the purposes of this Act when involving an expenditure of five hundred dollars or more, shall be by contract awarded to the lowest responsible bidder in accordance with the provisions of sections 14 and 15 of Article 4 entitled "City of Baltimore" of the Public Local Laws of Maryland, provided, however, that said Commission shall be empowered if it sees fit to insert in the specifications for any such work reasonable and lawful conditions as to the hours of labor, wages and the residence or character of workmen to be employed by the contractor, and especially so far as may be practicable, in the judgment of said commission, such reasonable and lawful conditions as will tend to confine employment on such work in whole or in part to permanent and *bona fide* residents of the State of Maryland only; and provided however, also that said commission with the consent of three-fourths of all its members may itself do any part or parts of any such work under such conditions in every respect as it may prescribe by day labor whenever the chief engineer in writing shall recommend that course; in which event the said Commission in addition to its other powers in the premises shall likewise be authorized to devise, promulgate and enforce such rules and regulations as will make merit and

personal fitness ascertained by some system of open competition or registration or both, the sole tests of eligibility for all positions of employment under its control which it may see fit to embrace within the scope of said rules and regulations which however may be limited to permanent and *bona fide* residents of this State; in any particular any and all bids or parts of bids for any such work or supplies or materials may be rejected; provided, however, that all bids shall, before an award is made by the Board of Awards under the provisions of said sections 14 and 15 of Article 4, entitled "City of Baltimore" of the Public Local Laws of Maryland, and so soon as said bids shall have been opened by the Board of Awards be referred to the said Commission by said Board for such consideration and recommendations in the premises the said Commission shall see fit to give and make, which said consideration and recommendations shall therefrom be given and made by the said Commission without unnecessary delay.

1904, ch. 349, sec. 6.

824f. In order to provide money for the projection, construction and establishment of said sewerage system the Mayor and City Council of Baltimore is hereby authorized to issue the stock of said corporation for a sum not exceeding ten million dollars; said stock to be issued from time to time as the Mayor and City Council of Baltimore shall by ordinance prescribe, and to be issued for such amounts and to be payable at such time and to bear such rate of interest as the Mayor and City Council of Baltimore shall by ordinance provide. Said stock shall be sold and issued by the Commissioners of Finance of the City of Baltimore at the best prices obtainable in their judgment therefor, and any premiums derived from the sale thereof shall remain in their hands as part of the sinking fund hereinafter mentioned for the redemption of said stock at maturity. The residue of the money received from the sale of said stock shall be turned over by them to the Comptroller, to be by him deposited with the City Register, and to be placed to the credit of a fund to be known as the "New Sewerage System Fund," which shall be exclusively applicable to the cost of the work authorized by this Act, and shall be chargeable with no other items of cost or expense whatever. Appropriations for the cost of said work, based upon the estimates of said commission, shall be annually included by the Board of Estimates in the usual way in the Ordinance of Estimates, and upon the written requisitions, supported by proper vouchers of the chairman of said commission, or of the chairman *pro tempore* of said com-

mission countersigned by the secretary of said commission, or by the secretary *pro tempore* of said commission, either of which officers the said commission is hereby authorized to appoint by vote or resolution in the event of the absence, sickness or other disability for the time being of its chairman or secretary, respectively, the Comptroller shall draw his warrants upon the City Register, payable out of such appropriations from said special fund for the amounts of all items of cost or expense properly chargeable upon said special fund. But said stock shall not be issued, in whole or in part, unless the ordinance of the Mayor and City Council of Baltimore providing for the issuance thereof shall be submitted to the legal voters of the City of Baltimore at such time and place as may be fixed by said ordinance, and be approved by a majority of the votes cast at such time and place as required by section 7 of Article XI of the Constitution of Maryland. If issued pursuant to such approval, the Mayor and City Council of Baltimore shall levy in each and every year upon all property liable to taxation in the City of Baltimore a sum sufficient to pay the interest accruing on said stock and to create a sinking fund sufficient, with the aid of any premiums on the sale thereof, to redeem said stock at its maturity.

1904, ch. 349, sec. 7.

**824g.** So often as any portion of said sewerage system shall be in actual operation and in condition to collect, transmit and dispose of domestic or house sewage, the said commission shall notify the Commissioner of Health of the said City of Baltimore of that fact and impart to him the metes and bounds of said portion of said sewerage system in such state of preparedness, and it shall thereupon become his duty to require all owners of property within such metes and bounds, and shall become the duty of all such owners at their own cost and expense to forthwith connect their respective house drains at their respective building lines with said sewerage system, and to forthwith clean out and fill up their respective privy sinks, wells, cesspools or other sewerage or drainage receptacles, and to abandon the use of their existing arrangements of every sort for the disposal of sewage or drainage under the directions and control of said Commissioner of Health; and full power is hereby conferred upon the Mayor and City Council of Baltimore to pass any ordinance or ordinances and provide for any remedial proceedings or processes or for any penalty or penalties that may be necessary, in its judgment, to enable said Commissioner of Health to properly and effectively comply with the obligations or any of the obliga-

tions hereinbefore imposed upon him by this section of this Act, and to keep the drainage connections between said respective building lines and said sewerage system free from obstruction and in good working order; and to do any and all things reasonably necessary to be done to compel said owners of said property to place and maintain the same in relations of full co-operation with said sewerage system.

1904, ch. 349, sec. 8.

**824h.** While the work authorized by this Act is being done by said commission the respective duties and powers of the City Engineer and Commissioner of Street Cleaning and other city officials in their relations to the existing sewers and drains of the City of Baltimore shall, subject to the duties and powers hereby conferred upon said commission, continue as at present; and said commission shall be authorized as its work progresses to turn over from time to time, in its discretion, such completed portions of said work as it may see fit to the charge, superintendence and control of the proper city officials. When its work under this Act has been fully and finally completed in every respect, and not before, the life of said commission, as originally appointed and as subsequently recruited by appointments to occasional vacancies, if any, shall come to an end, and the said sewerage system established by it shall, so far as it has not already been surrendered to the charge, superintendence and control of said officials, be then so surrendered, and at the same time all the records, writings and papers of said commission shall be delivered up to the City Librarian, to be preserved in his office, and all property and effects in its possession belonging to the city to the Comptroller, to be disposed of by him as may be provided by ordinance.

Act 1904, ch. 349, sec. 9. repeals Act 1901, ch. 19.

1910, ch. 630, sec. 1.

**824i.** That in order to provide additional money for the projection, construction, establishment and completion of said sewerage system, including in said system the disposal of sewerage and drainage from property belonging to or under the control of the Mayor and City Council of Baltimore, the Mayor and City Council of Baltimore is hereby authorized to issue the stock of said corporation for a sum not exceeding ten million dollars, said stock to be issued from time to time, as the Mayor and City Council of Baltimore shall, by ordinance, prescribe, and to be issued for such amounts and to be payable at such time, and to bear such rate of interest as the Mayor and City



Council of Baltimore shall by ordinance provide; the money so realized from the sale of said stock to be used for the purposes specified in said Chapter 349 of the Acts of the General Assembly of Maryland enacted in the year 1904, and to be expended in accordance with the terms, conditions and provisions of said Act, or of any amendments or additions thereto; said stock shall be sold and issued by the Commissioners of Finance of the city at the best prices obtainable, in their judgment, therefor; and any premiums derived from the sale thereof shall remain in their hands as part of the sinking fund herein-after mentioned for the redemption of said stock at maturity. The residue of the money received from the sale of said stock shall be turned over by them to the Comptroller, to be by him deposited with the City Register, and to be placed to the credit of a fund to be known as the "New Sewerage System Fund No. 2," which shall be exclusively applicable to the cost of the work authorized by this Act and by said Chapter 349 of the Acts of the General Assembly of Maryland enacted in the year 1904, and shall be chargeable with no other items of cost or expense whatever. Appropriations for the cost of said work, based upon the estimates of said Commission, shall be annually included by the Board of Estimates in the usual way, in the ordinance of estimates, and upon the written requisitions, supported by proper vouchers of the chairman of said Commission, or of the chairman *pro tempore* of said Commission, countersigned by the secretary of said Commission, or by the secretary *pro tempore* of said Commission, either of which officers the said Commission is hereby authorized to appoint, by vote or resolution, in the event of the absence, sickness or other disability, for the time being, of its chairman or secretary, respectively. Comptroller shall draw his warrants upon the City Register, payable out of such appropriations from said special fund for the amounts of all items of cost or expense properly chargeable upon said special fund, but said stock shall not be issued, in whole or in part, unless the ordinance of the Mayor and City Council of Baltimore providing for the issuance thereof shall be submitted to the legal voters of the City of Baltimore at such time and place as may be fixed by said ordinance, and be approved by a majority of the votes cast at such time and place as required by section 7 of Article 11 of the Constitution of Maryland. If issued pursuant to such approval, the Mayor and City Council of Baltimore shall levy in each and every year upon all property liable to taxation in the City of Baltimore a sum sufficient to pay the interest accruing on said stock and to create a sinking fund sufficient, with the aid of any premiums on the sale thereof, to redeem said stock at its maturity.

1910, ch. 630, sec. 2.

824j. That the Sewerage Commission shall locate its sewers intended for house connections in the rear of said houses whenever practicable and whenever said houses are not already otherwise connected with sewers, but said Sewerage Commission may locate any of said sewers in the front of said houses whenever the cost to the owners of the majority of the houses to be connected with said sewers in any block will be less if laid in front of said houses than if laid in the rear of said houses, and it shall be the duty of the Sewerage Commission to use private sewers whenever suitable and whenever any of said sewers is suitable and of sufficient capacity both to drain the houses connected with each sewer and such other houses as may be built abutting on that part of the street, alley or way in or near which said sewer is located, then the said Commission shall acquire, and it is hereby directed to acquire said sewer if the same can be obtained at a sum not exceeding fifty per cent. of what would be the cost of constructing and laying a sewer of the same kind in the same place, and if the same cannot be obtained, then the said Commission shall not be required to acquire said sewer, but said Commission may either build another sewer to take the place of said private sewer, or, in its discretion, may acquire said sewer for a sum exceeding fifty per cent. of said cost, or, in its discretion, may acquire said private sewer by condemnation in the method provided by said Chapter 349 of the Acts of 1904; provided, however, that when more than one private sewer shall exist in the same part of any street, alley or other way, then the said Commission shall be required to acquire, in the manner and upon the terms hereinbefore set forth, only that private sewer which in the opinion of said Commission will be best suited for said sewerage system, and provided that whenever any private sewer has been built since the passage of said Chapter 349 of the Acts of 1904, or shall hereafter be built upon any agreement with the Sewerage Commission that said sewer should thereafter be taken over by said Commission at a price or on terms agreed upon, then said sewer shall be so taken over by said Commission; and in the event of any disagreement or dispute between the owner or owners of property or properties or of private sewers, or their representatives, and the said Sewerage Commission as to the location of any lateral sewer or sewers intended for house connections, or the capacity, location or suitability of any private sewer, or the cost of constructing and laying a sewer similar to any private sewer, then the matter shall be referred to a board composed of the four

city officials now constituting the Board of Public Improvements of the City of Baltimore, under rules to be adopted by said Board, and the decision of said Board as to any of said matters so referred to said Board shall be final and binding on said Sewerage Commission and the party or parties appealing, and forty days before the work of construction of any lateral sewer or sewers intended for house connections shall be begun, said Sewerage Commission shall give notice by publication in three or more of the daily newspapers of Baltimore City of the general location of said sewer, and any property owner or other person interested in the location of said sewer or in any private sewer intended to be used or which might be used in connection with or instead of the intended sewer, may, within ten days after the first publication of said notice, apply to said Sewerage Commission for detailed information as to the location and construction of said sewer and as to what, if any, private sewers are intended to be used, and said person may, within said ten days, protest in writing to said Sewerage Commission against any part of the proposed plan of said sewer, and thereupon said Sewerage Commission, at some time within a period beginning ten days after said first publication and ending twenty days after said publication, shall make its determination in writing with reference to said protest, which determination shall be open to public inspection; and any person who has thus protested, or any other person interested in said determination may, within a period beginning twenty days after said first publication and ending thirty days after said first publication, appeal in writing to a board composed of the four city officials now constituting the Board of Public Improvements, against said determination of said Sewerage Commission with reference to said protest, and said Board so composed, within a period beginning thirty days after said first publication and ending forty days after said first publication, shall make its decision with reference to said protest, which decision, as above mentioned, shall be final and binding upon said Sewerage Commission and the party or parties appealing or protesting.

1912, ch. 24, sec. 1.

**824k.** That for the purpose of preserving the sanitary condition of the city, the Mayor and City Council of Baltimore be and it is hereby authorized to borrow money temporarily up to such an amount as may be necessary not exceeding the amount of the obligations or indebtedness of property owners to it, under the provisions of Ordinance No. 58, approved December 28, 1911, for the purpose of providing the City Engineer with

the necessary funds to make the sewer connections and do the other work which he is authorized and directed to do by said ordinance, the Mayor and City Council of Baltimore is hereby authorized for the purpose of borrowing such money to give its note to be signed on behalf of the city by the Mayor, the Comptroller and the City Engineer, and to pledge as collateral the obligations or indebtedness of property owners to the city under said Ordinance No. 58 to an amount equal to the amount of the loan, and to renew such note in whole or in part from time to time, not exceeding the time of maturity of the collateral. The method of pledging such indebtedness from the owners of property under said Ordinance No. 58 as collateral for such loan shall be as follows:

The City Collector shall give a certificate over his hand that there is due to the Mayor and City Council of Baltimore a certain sum under said Ordinance No. 58 from the following property owners, giving the number of the property and the name of the owner, and the amount due on each, and that said indebtedness is not pledged for any other loan. Said certificate attached to and delivered with the note of the city, as above provided, shall constitute a pledge of the indebtedness of said parties to the city as collateral security for the said note, or any renewal thereof as above provided. The City Collector shall collect said indebtedness, as provided in said ordinance, just as if the same were not pledged, but shall pay over to the holder of any note given under this Act all collections of any of the indebtedness pledged as collateral therefor, and such holder shall credit all such payments on such note.

1912, ch. 24, sec. 2.

**824l.** That Ordinance No. 58 of the Mayor and City Council of Baltimore, approved December 28, 1911, be and it is hereby ratified and confirmed, and every indebtedness accruing to the Mayor and City Council of Baltimore from any property owner in said city under and in pursuance of the terms of said ordinance is hereby declared to be a lien upon the property of such property owner as in said ordinance declared, and collectible as therein provided.

1914, ch. 323, sec. 1.

**824m.** That in order to provide additional money for the projection, construction, establishment and completion of said sewerage system, including in said system the disposal of sewage and drainage from property belonging to or under the control of the Mayor and City Council of Baltimore, the Mayor

and City Council of Baltimore is hereby authorized to issue bonds or certificates of stock of said corporation for a sum not exceeding three million dollars (\$3,000,000), said bonds or certificates of stock to be issued by ordinance, and to be issued for such amounts and to be payable at such time or times, and to bear such rate of interest, not exceeding 5%, as the Mayor and City Council of Baltimore shall, by ordinance, provide; the money so realized from the sale of said stock to be used for the purposes specified in said Chapter 349 of the Acts of 1904, and Chapter 630 of the Acts of 1910, and to be expended in accordance with the terms, conditions and provisions of said Act, or any amendments or additions thereto; said stock shall be sold and issued by the Commissioners of Finance of the city at the best prices obtainable, in their judgment, therefor. The money received from the sale of said bonds or stock shall be turned over by them to the Comptroller, to be by him deposited with the City Register, and to be placed to the credit of a fund to be known as "The New Sewerage System Loan No. 3," which shall be exclusively applicable to the cost of the work authorized by this Act and by said Chapter 349 of the Acts of 1904 and Chapter 630 of the Acts of 1910. Appropriations for the cost of said work, based upon the estimates of said Commission, shall be annually included by the Board of Estimates in the usual way in the Ordinance of Estimates, and upon the written requisition, supported by proper vouchers of the Chairman of said Commission, or of the chairman *pro tempore* of said Commission, countersigned by the Secretary of said Commission, or by the secretary *pro tempore* of said Commission, either of which officers the said Commission is hereby authorized to appoint, by vote or resolution, in the event of the absence, sickness or other disability, for the time being, of its Chairman or Secretary, respectively, the Comptroller shall draw his warrants upon the City Register, payable out of such appropriations from said special fund for the amounts of all items of cost or expense properly chargeable upon said special fund, but said bonds or stock shall not be issued, in whole or in part, unless the ordinance of the Mayor and City Council of Baltimore providing for the issuance thereof shall be submitted to the legal voters of the City of Baltimore, at such time and place as may be fixed by said ordinance, and be approved by a majority of the votes cast at such time and place as required by section 7 of Article 11 of the Constitution of Maryland. If issued pursuant to such approval, the Commissioners of Finance of the city shall issue said bonds or stock, payable at such time

or times, not exceeding forty years, and at such rate of interest as the City Council may determine, not exceeding 5 per cent. Said city may make payable annually a proportion of the principal of said bonds or certificates, and provide that said stock or bonds may be issued in series, falling due at stated periods; in which event the Mayor and City Council of Baltimore shall annually raise, by taxation, the amount required to meet such interest and the proportion of the principal then payable. The sinking funds of any loans of said city may be invested in said bonds or certificates.

1914, ch. 323, sec. 2.

**824n.** That the Sewerage Commission shall locate its sewers intended for house connections in the rear of said houses whenever practicable and whenever said houses are not already otherwise connected with sewers, but said Sewerage Commission may locate any of said sewers in the front of said houses whenever the cost to the owners of the majority of the houses to be connected with said sewers in any block will be less if laid in front of said houses than if laid in the rear of said houses, and it shall be the duty of the Sewerage Commission to use private sewers whenever suitable and whenever any of said sewers is suitable and of sufficient capacity both to drain the houses connected with each sewer and such other houses as may be built abutting on that part of the street, alley or way in or near which said sewer is located, then the said Commission shall acquire, and it is hereby directed to acquire said sewer, if the same can be obtained at a sum not exceeding fifty per cent. of what would be the cost of constructing and laying a sewer of the same kind in the same place, and if the same cannot be obtained, then the said Commission shall not be required to acquire said sewer, but said Commission may either build another sewer to take the place of said private sewer, or, in its discretion, may acquire said sewer for a sum not exceeding fifty per cent. of said cost, or, in its discretion, may acquire said private sewer by condemnation in the method provided by said Chapter 349 of the Acts of 1904; provided, however, that when more than one private sewer shall exist in the same part of any street, alley or other way, then the said Commission shall be required to acquire, in the manner and upon the terms hereinbefore set forth, only that private sewer which in the opinion of said Commission will be best suited for said sewerage system, and provided that whenever any private sewer has been built since the passage of said Chapter 349 of the Acts of 1904, or shall hereafter be built upon any agreement with the Sewerage Commission, that said

sewer shall thereafter be taken over by said Commission at a price or on terms agreed upon, then said sewer shall be so taken over by said Commission; and in the event of any disagreement or dispute between the owner or owners of property or properties or of private sewers, or their representatives, and the said Sewerage Commission as to the location of any lateral sewer or sewer intended for house connections, or the capacity, location or suitability of any private sewer, or the cost of constructing and laying a sewer similar to any private sewer, then the matter shall be referred to a board composed of the four city officials now constituting the Board of Public Improvements of the City of Baltimore, under rules to be adopted by said Board, and the decision of said Board as to any of said matters so referred to said Board shall be final and binding on said Sewerage Commission and the party or parties appealing; and forty days before the work of construction of any lateral sewer or sewer intended for house connections shall be begun, said Sewerage Commission shall give notice by publication in three or more of the daily newspapers of Baltimore City of the general location of said sewer, and any property owner or other person interested in the location of said sewer or in any private sewer intended to be used or which might be used in connection with or instead of the intended sewer, may, within ten days after the first publication of said notice, apply to said Sewerage Commission for detailed information as to the location and construction of said sewer, and as to what, if any, private sewers are intended to be used, and said person may, within said ten days, protest in writing to said Sewerage Commission against any part of the proposed plan of said sewer, and thereupon said Sewerage Commission, at some time within a period beginning ten days after said first publication and ending twenty days after said publication, shall make its determination in writing with reference to said protest, which determination shall be open to public inspection: and any person who has thus protested, or any other person interested in said determination may, within a period beginning twenty days after said first publication and ending thirty days after said first publication, appeal in writing to a board composed of the four city officials, now constituting the Board of Public Improvements, against said determination of said Sewerage Commission with reference to said protest, and said Board so composed, within a period beginning thirty days after said first publication and ending forty days after said first publication, shall make its decision with reference to said protest, which decision, as above men-

tioned, shall be final and binding upon said Sewerage Commission and the party or parties appealing or protesting.

### SHERIFF'S FEES.

P. L. L., (1888) Art. 4, sec. 799A. 1892, ch. 406.

**825.** The Sheriff of Baltimore City shall hereafter receive for the services hereinafter recited, fees as follows:

For serving an attachment of contempt and return, one dollar and fifty cents.

For an arrest on warrant and return in criminal cases, one dollar.

Deale v. Estep, 3 Bland 435.

### STOCKS, LOANS AND FINANCE.

1886, ch. 509. P. L. L., (1888) Art. 4, sec. 805.

**826.** The Mayor and City Council of Baltimore are authorized and empowered to endorse the bonds of the Baltimore and Eastern Shore Railroad Company to the extent of ten thousand dollars per mile of said railroad, as the same is completed; *provided*, that no such endorsement shall be made until an ordinance of the Mayor and City Council of Baltimore, authorizing and directing the same, and the terms and conditions, and mode and manner of making said endorsement shall have been submitted to the legal and qualified voters of the City of Baltimore, at such time and place as may be fixed by said ordinance, to be approved by a majority of votes cast at such time and place; *provided* further, that the aggregate amount of such endorsements shall not exceed the sum of five hundred thousand dollars, and that the bonds so endorsed shall be secured by first mortgage on the property and franchises of said Baltimore and Eastern Shore Railroad, shall bear interest at a rate not exceeding three and one-half per cent. per annum; and *provided* further, that before the said ordinance shall be passed by the Mayor and City Council of Baltimore, or submitted to the voters of said city, the propriety of making said endorsement shall receive the approval and endorsement of the Board of Trade of the City of Baltimore, of the Corn and Flour Exchange, of the Merchants and Manufacturers' Association of said Baltimore City, and of the Merchants and Manufacturers' Association of Old Town, expressed by a majority vote of said associations, respectively, and duly certified to the Mayor and City Council of Baltimore.

The following loans have been authorized by Acts of Assembly and approved by the people since the enactment of the new Charter:—

(1) *Western Maryland Refunding Loan*, Act 1898, ch. 210, author-



izing issue of stock to amount of \$1,875,000 to extinguish certain mortgage bonds maturing January 1, 1900, and an issue of \$1,000,000 of stock loaned said railroad, maturing January 1, 1902. *See also*, Act 1900, ch. 280, ratifying Ord. 32, February 8, 1900.

(2) *Public Improvement \$6,000,000 Loan*, Act 1898, ch. 361, ratifying and confirming Ord. 100, October 7, 1892, authorizing an issue of six million dollars of registered bonds of the City of Baltimore for the purposes set out in said ordinance.

(3) *Refunding Loan for \$4,300,000*, to redeem certain loans named in Act 1898, ch. 373, authorizing said refunding loan.

(4) *Conduit Loan for \$1,000,000*, Act of 1902, ch. 246.

(5) *Water Loan for \$1,000,000*, Act 1902, ch. 333.

(6) *Anner Improvement Loan for \$2,000,000*, Act. 1904, ch. 274.

(7) *Park Improvement Loan for \$1,000,000*, Act 1904, ch. 338.

(8) *New Sewerage System for \$10,000,000*, Act 1904, ch. 349.

(9) *Burnt District Improvement Loan*, Acts 1904, ch. 444, and 1904, ch. 468, authorizing issue of \$6,000,000 of City Stock to defray expenses of improvements in the Burnt District.

*See*, omnibus ordinance relating to City loans, City Code, 1906, Art. 34, sec. 19.

(10) *Fire Engine House Loan for \$1,000,000*, Act 1906, ch. 467½.

(11) *Conduit Loan for \$1,000,000*, Act 1908, ch. 165.

(12) *Civic Centre and Park Loan for \$3,000,000*, Act 1908, ch. 188.

(Has not been submitted to people.)

(13) *Additional Burnt District Improvement Loan for \$1,000,000*, Act 1908, ch. 247.

(14) *Water Loan for \$5,000,000*, Act 1908, ch. 214.

(15) *Additional Anner Improvement Loan for \$2,500,000*, Act 1910, ch. 736.

(16) *Additional New Sewerage System Loan for \$10,000,000*, Act 1910, ch. 630.

(17) *Police Station House Loan for \$1,000,000*, Act 1910, ch. 570.

(Has not been submitted to people.)

(18) *General Fund Bond Loan for \$3,000,000*, Act 1910, ch. 549.

(19) *Harbor Improvement Loan for \$5,000,000*, Act 1910, ch. 485.

(Has been approved by the people to the extent \$3,500,000; see Ordinance No. 557, approved June 13, 1910, and Ordinance No. 518, approved October 3, 1914.)

(20) *Jones Falls Improvement Loan for \$1,000,000*, Act 1910, ch. 110.

(21) *School House Loan for \$1,500,000*, Act 1910, ch. 92.

(22) *Additional Conduit Loan for \$2,000,000*, Act 1912, ch. 27.

(23) *Additional New Sewerage Improvement Loan for \$3,000,000*, Act 1914, ch. 323.

(24) *Contagious Diseases Hospital Loan for \$750,000*, Act 1914, ch. 722. (Has not been submitted to the people.)

## CIVIC CENTRE AND PARKS.

1908, ch. 188, sec. 1.

**826a.** That the Mayor and City Council of Baltimore is hereby authorized to issue its stock to an amount not exceeding three millions of dollars, said stock to be issued from time to time, as the Mayor and City Council of Baltimore may by

ordinance prescribe, and to be issued in such amounts, and to be payable at such time and to bear such rate of interest as the Mayor and City Council of Baltimore shall by ordinance provide. The proceeds of said stock are to be used for the purchase of lands and interests therein for the extension of the park system of Baltimore, for the acquisition and establishment of a civic centre, or central square, or squares or district, and for the establishment and for construction of boulevards, or parked ways, to constitute a part of the park system of the City of Baltimore, and to be under the jurisdiction of the Board of Park Commissioners of Baltimore, or other boulevards or parkways, and for the purpose of developing and improving said park system to such amount as the Mayor and City Council of Baltimore may by special ordinance or ordinances or by the annual ordinance of estimates prescribe. But said stock shall not be issued, in whole or in part, unless the ordinance of the Mayor and City Council of Baltimore providing for the issuance thereof shall be submitted to the legal voters of the City of Baltimore, at such time and place as may be fixed by said ordinance, and be approved by a majority of the votes cast at such time and place as required by section 7, Article 11, of the Constitution of Maryland.

1908, ch. 188, sec. 2.

**826b.** The Mayor and City Council of Baltimore is hereby authorized to delegate to the Board of Park Commissioners of the City of Baltimore, by special ordinance or by the annual ordinance of estimates, the power to acquire by gift, purchase, lease, whatever the duration of the lease, or other like methods of acquisition, or by arbitration, or by condemnation, any land, or improvements situate wholly without or wholly or partly within the City of Baltimore, or any interest, individual, railway or other corporate franchise, right, easement or privilege therein, which may be required for the purpose of extending said park system, establishing and constructing said boulevards and parkways, acquiring and establishing a civic centre, or central square, or squares, or district, and extending the park system of Baltimore City; and provided, further, that when and so often as resort shall be had to condemnation proceedings under this Act, the procedure, so far as the acquisition by condemnation of any land or property or thing situated within the City of Baltimore, or any interest, franchise, easement, right or privilege therein is concerned may, in any case or cases, at the option of the Mayor and City Council of Baltimore, be such as may now, or at any time hereafter be provided for by any

lawful ordinance or ordinances of the Mayor and City Council of Baltimore, adopted pursuant to the powers conferred upon it by section 6 of Article 4, entitled "City of Baltimore," of the Code of Public Local Laws of Maryland, title "General Powers," sub-title "Condemnation of Property," for the condemnation of land or property or interests therein for the municipal needs of the City of Baltimore, or such as may be provided for the very purpose by any lawful special ordinance or ordinances of the Mayor and City Council of Baltimore, which said lawful special ordinance or ordinances the said Mayor and City Council of Baltimore is hereby duly authorized to adopt, provided that in every such special ordinance provision is made for reasonable notice to the owner or owners, and for appeals to the Baltimore City Court, including the right of appeal to the Court of Appeals by any person interested, including the Mayor and City Council of Baltimore, from the decision of the commissioners or other persons appointed to value any such land, property or thing, or interest, franchise, easement, right or privilege therein; but so far as the acquisition by condemnation of any land, or property or thing situated within Baltimore County, or within any other county of this State, or of any interest, franchise, easement, right or privilege therein is concerned, the procedures shall be marked out by section 6 of Article 4, entitled "City of Baltimore," of the Code of Public Local Laws of Maryland, title "General Powers," sub-title "Water."

1908, ch. 188, sec. 3.

**826c.** The Mayor and City Council of Baltimore is hereby authorized and empowered to delegate to the Board of Park Commissioners the power to expend such portion of the proceeds arising from the sale of said stock as it may by special ordinance or ordinances, or by the annual ordinance of estimates, determine, in construction of said boulevards or park ways, and of all needed foundations or sub-structures for said boulevards or park ways, and in the development and improvement of the park system of Baltimore as it now exists or may hereafter be extended.

1908, ch. 188, sec. 4.

**826d.** In the event the duty of acquiring additional lands or interests therein for the purposes specified in section 1 of this Act is imposed on the Board of Park Commissioners, the said Mayor and City Council is empowered to make special compensation to the president or to all the members of the Board of Park Commissioners for the additional duties imposed on

them in making the acquisition of the said property, said compensation to be fixed by special ordinance or by the annual ordinance of estimates.

1908, ch. 188, sec. 5.

**826e.** In developing and improving any land acquired as aforesaid, the Mayor and City Council of Baltimore shall be free from restrictions created by Chapter 158 of the Acts of the General Assembly of Maryland, approved March 23, 1906.

1908, ch. 188, sec. 6.

**826f.** The interest on the loan authorized by this Act, and the sinking fund for the redemption of the said loan shall be taken out of the receipts from the park tax on the street railway companies of Baltimore City, or from the proceeds of the general tax levy as by ordinance of the Mayor and City Council of Baltimore may be provided.

#### CONTAGIOUS DISEASES HOSPITAL.

1914, ch. 722, sec. 1.

**826g.** That the Mayor and City Council of Baltimore be and is hereby authorized to issue its stock to an amount not exceeding Seven Hundred and Fifty Thousand (\$750,000.00) Dollars, to be issued from time to time in such amounts and payable at such time and bearing such rate of interest as the said Mayor and City Council of Baltimore shall by ordinance prescribe. The proceeds of said issue to be used to provide a hospital for contagious diseases, but said stock shall not be issued in whole or in part unless the ordinance of the Mayor and City Council of Baltimore providing for the issuance thereof shall be submitted to the legal voters of said city at such time and place as may be fixed by said ordinance, and be approved by a majority of the votes cast for and against said ordinance at such time and place as required by section 7 of Article 11 of the Constitution of Maryland.

#### ELECTRICAL COMMISSION.

1902, ch. 246.

**826h.** The Mayor and City Council of Baltimore be and it is hereby authorized to issue its stock to an amount not exceeding one million dollars (\$1,000,000), to be issued in such amount or amounts, and payable at such time, and bearing such rate of interest as the said Mayor and City Council of Baltimore shall by ordinance prescribe. The proceeds of said issue to be used to provide extensions to the underground conduits

built under the direction of the Electrical Commission in said city, said extensions to be made in accordance with authority vested in said Electrical Commission by Ordinances 106, 107 and 108 of the Ordinances of the Mayor and City Council of Baltimore, by virtue of the provisions of Chapter 200 of the Acts of Assembly of Maryland enacted during the session of the year 1892, but said stock shall not be issued unless the ordinance providing for the issue of said stock shall be approved by a majority of the legal voters of said city cast at some time and place to be fixed by said ordinance in a provision for submitting the same to the legal voters of said city, as required by section 7 of Article 11 of the Constitution of this State.

1908, ch. 165.

**826h-1.** That the Mayor and City Council of Baltimore be and it is hereby authorized to issue its stock to an amount not exceeding one million dollars; said stock to be issued from time to time as the Mayor and City Council of Baltimore, shall, by ordinance, provide, and to be issued for such amounts, and to be payable at such times, and to bear such rate of interest as the Mayor and City Council of Baltimore shall, by ordinance, provide; and the proceeds thereof to be used for the purpose of providing extensions to the underground conduits and their appurtenances, including distributing poles built under the direction of the Electrical Commission in said city; said extensions to be in accordance with the authority vested in said Electrical Commission by ordinances Nos. 106, 107 and 108 of the Mayor and City Council of Baltimore, approved August 25, 1898, and all amendments thereof or supplements thereto, passed by virtue of the provisions of Chapter 200 of the Acts of Assembly of Maryland, enacted during the session of the year 1892, but said stock shall not be issued in whole or in part unless the ordinance of the Mayor and City Council of Baltimore providing for the issuance shall be submitted to the legal voters of Baltimore at such time and place as may be fixed by said ordinance, and be approved by a majority of the votes cast at such time and place as required by section 7 of Article 11 of the Constitution of Maryland.

1912, ch. 27, sec. 1.

**826i.** That the Mayor and City Council of Baltimore be and it is hereby authorized to issue its stock to an amount not exceeding two million dollars; said stock to be issued from time to time as the Mayor and City Council of Baltimore shall by ordinance provide, and to be issued for such amounts and to be payable at such times, and to bear such rate of interest as

the Mayor and City Council of Baltimore shall by ordinance provide; and the proceeds thereof to be used for the purpose of providing extensions to the underground conduits and their appurtenances, including distributing poles built under the direction of the Electrical Commission in said city; said extensions to be in accordance with the authority vested in said Electrical Commission by Ordinances Nos. 106, 107 and 108 of the Mayor and City Council of Baltimore, approved August 25, 1898, and all amendments thereof or supplements thereto, passed by virtue of the provisions of Chapter 200 of the Acts of Assembly of Maryland enacted during the session of the year 1892, but said stock shall not be issued in whole or in part unless the ordinance of the Mayor and City Council of Baltimore providing for the issuance thereof, shall be submitted to the legal voters of Baltimore at such time and place as may be fixed by said ordinance, and be approved by a majority of the votes cast for and against said ordinance at such time and place as required by section 7 of Article 11 of the Constitution of Maryland.

#### HARBOR, DOCKS AND WHARVES.

1910, ch. 485, sec. 1.

**826j.** That the Mayor and City Council of Baltimore be and it is hereby authorized to issue the stock of the said corporation to an amount not exceeding five million dollars (\$5,000,000); said stock may be issued all at the same time pursuant to the same ordinance, or the same may be issued from time to time in separate issues of such respective amounts, and such respective issues shall be payable at such respective dates and shall bear such rate of interest, respectively, as the Mayor and City Council of Baltimore shall in each case, by ordinance, prescribe; and the power to issue said stock to the full amount aforesaid shall not be deemed to be exhausted until said full amount thereof shall have been actually issued; provided, however, that no part of said stock shall be issued unless, and until, the said respective ordinance or ordinances of the Mayor and City Council of Baltimore, providing for issuance thereof, shall in each case, at such time and place as may be fixed by such respective ordinance or ordinances, and be approved by majority of the votes cast at such time and place, as required by section 7 of Article XI of the Constitution of Maryland. The Mayor and City Council of Baltimore shall levy in each and every year, upon all property liable to taxation in the City of Baltimore, a sum sufficient to pay the interest accruing on the amount of said stock so issued and outstanding and to create a sinking fund sufficient, with the aid of any premiums on the sale thereof, to

redeem said stock at the date or dates of maturity thereof, said stock shall be sold and issued by the Commissioners of Finance of the City of Baltimore, or by such other department, board, commission or officials as may hereafter be vested with the functions now exercised by the Commissioners of Finance, at the best prices obtainable, in their judgment, therefor, and any premium derived from the sale thereof shall constitute part of the sinking fund hereinbefore provided for the redemption of said stock at maturity. The residue of the money received from the sale of said stock shall be turned over to the Comptroller, to be by him deposited with the City Register, and to be placed to the credit of a special fund to be known as the "Harbor Improvement Fund," which shall be exclusively applicable to the work and objects provided for by this Act, after appropriations for the cost of such work shall have been duly included and allowed for each year, in the usual way, in the Ordinance of Estimates, then, upon the written requisitions of the proper departments, sub-departments, boards, commissions or officials, the Comptroller shall draw his warrants upon the City Register, payable out of such appropriations from said special fund, for the amounts of all items of cost or expense properly chargeable upon said special fund.

1910, ch. 485, sec. 2.

**826k.** That the proceeds of the stock hereby authorized shall be exclusively applicable to and used for the laying out, projecting, constructing and establishing of a comprehensive system for the improvement of the water front of, adjacent to and along, the Patapsco River and its tributaries, both within the limits of the City of Baltimore; said improvements, among other things, shall include:

1. The making of all such preliminary investigations, maps and plans, and the doing of all such preliminary work as may desirably precede the actual laying out, projection, construction and establishment of said improvements.

2. The laying out, projecting and adopting such system of improvement for the water front, harbor and basin as may be best calculated to promote the improvements contemplated by this Act.

3. The acquisition from time to time, by gift, purchase, lease, whatever the duration of the lease, or other methods of acquisition, or by condemnation, of any land or property whatsoever, including streets, avenues, lanes or alleys, and interests, franchises, easements, rights and privileges of any and every kind, whether within the limits of the City of Baltimore, which may be proper or desirable in connection with the objects of

this Act; and no ordinance or ordinances shall, in any case, be necessary to the acceptance of any conveyance.

4. The construction and establishment of such additions to, extensions of, and alterations or changes in, the public wharves, docks and piers of the City of Baltimore, and the construction and establishment of such new public wharves, docks and piers, both within the limits of the City of Baltimore as may be proper or desirable in connection with the objects and purposes of this Act; and the construction and establishment thereon, or adjacent thereto, of such public warehouses, sheds, structures and buildings as may be desirable or proper in connection with the objects of this Act; and also the reconstruction, alteration, extension or change of existing bridges as may be proper or desirable.

5. The laying out, opening, extending, widening, narrowing, straightening, closing, grading, paving and curbing of any of the streets, avenues, lanes and alleys or parts thereof, adjacent to or leading to or along said water front, or leading or adjacent to or along or being upon, any of the public wharves, docks and piers now or hereafter to be constructed, whether such streets, avenues, lanes or alleys or parts thereof may be within the limits of the City of Baltimore, and the establishment and fixing of the building lines thereon and the width of the sidewalks thereof, all as may be proper or desirable in connection with the objects of this Act.

6. The widening, extending or deepening of the channels of the harbor or basin of the City of Baltimore, whether within the limits of said city, and the cleansing, scouring, clearing, dredging or ballasting of the said harbor or basin and the said channels, as well as the approaches thereto.

7. The affixing and placing of buoys or water marks at such place or places in said harbor or basin, or the channels thereof or the approaches thereto, as may seem desirable.

Provided, however, that this enumeration of special objects and purposes shall not be taken or construed as restricting or impairing, in any degree, the scope of the general objects and purposes hereinbefore mentioned as contemplated by this Act.

And provided further, that none of the work contemplated by this Act shall be done or executed under this Act, and none of the rights and powers hereby authorized shall be exercised under this Act, unless and until the plans and intentions of the departments, sub-departments, commissions, boards or officials, with respect thereto, shall have been submitted to and authorized and approved by the Board of Estimates of the City of Baltimore or by such other Board as may hereafter be vested with the functions now exercised by the Board of Estimates.



1910, ch. 485, sec. 3.

**826l.** That the Mayor and City Council of Baltimore, through the agencies hereinafter mentioned, is hereby vested and clothed with full power and authority to execute and carry into effect each and all of the objects and to do each and all of the things provided for or contemplated by this Act as aforesaid, and to have and exercise each, every and all powers, and to do any and all things which, by any thing short of a palpably forced construction, it may deem desirable, convenient or proper to further and accomplish the objects of this Act or any of them; and especially is the Mayor and City Council of Baltimore, acting in this respect through the agency of the Board of Estimates, fully authorized and empowered, to rent, lease or hire out all public wharves, docks, piers, warehouses, sheds, structures and buildings, or parts thereof, or rights of user thereof or therein, or space therein, upon such terms and conditions, to such persons, firms or corporations, and for such duration, as to said Board of Estimates may seem proper; and any board in which the powers now exercised by the Board of Estimates may hereafter be vested, shall exercise the functions by this section conferred upon said Board of Estimates.

1910, ch. 485, sec. 4.

**826m.** That when and as often as resort shall be had under this Act to condemnation proceedings in connection with laying out, opening, extending, widening, narrowing, straightening or closing of any streets, avenues, lanes or alleys or parts thereof, then after the authorization and approval, as aforesaid, of the Board of Estimates, such proceedings shall be instituted, prosecuted and conducted by the Commissioners for Opening Streets of the City of Baltimore, and the procedure of said Commissioners and their rights and powers, shall be such as now or hereafter may be prescribed by law in relation to their ordinary duties and powers of the same nature, provided that no preliminary notice shall, in any case, be requisite to the exercise by the said Commissioners, after the prior authorization and approval of the Board of Estimates as aforesaid, of their said powers under this Act; and any commission, board, department or officials in which, or in whom, the general powers are exercised by the Commissioners for Opening Streets, may hereafter be vested, shall exercise as aforesaid, the functions by this section conferred upon said Commissioners for Opening Streets, when and so often as resort shall be had under this Act to condemnation proceedings, in connection with any of the rights and powers hereby authorized or any work hereby contemplated, other than such as relates to streets, ave-

nues, lanes and alleys, for which provision has just been made; in every such case the procedure, rights and powers, with respect to such condemnation, shall be such as may now or hereafter be prescribed by law with regard to the ordinary powers of the Mayor and City Council of Baltimore for the condemnation of property, except that no ordinance shall be necessary to such proceedings, but the only pre-requisites thereto shall be the authorization of the Harbor Board of Baltimore City, or such other department, sub-department, board, commission, official or officials, in which, or in whom, the powers and duties now exercised by said Harbor Board may hereafter be vested, and also the approval of the Board of Estimates or of such other Board as may hereafter be authorized to exercise the functions now exercised by said Board of Estimates, or the procedure, rights and powers with respect to any or all condemnations authorized by this Act may be such as may be provided for the very purpose by any lawful ordinance or ordinances of the Mayor and City Council of Baltimore, which said ordinance or ordinances the Mayor and City Council of Baltimore is hereby fully authorized to adopt; provided provision is made therein for reasonable notice to the owner or owners, and for appeals to the Baltimore City Court, and the right of appeal to the Court of Appeals, by any person interested, including the Mayor and City Council of Baltimore, from the decisions of any commission, board, department or officials appointed to value any such land or property or interest, franchise, easement, right or privilege therein.

1910, ch. 485, sec. 5.

**826n.** That the proceedings under this Act, for the grading, paving and curbing of streets, avenues, lanes or alleys, or parts thereof, or of bridges or parts thereof, and for the establishing and fixing of the building lines and of the width of sidewalks, after the authorization and approval, as aforesaid, of the Board of Estimates, shall be instituted, prosecuted and conducted by such departments, sub-departments, board, commission or officer of the City of Baltimore as may now or hereafter be clothed with the exercise of rights and powers of a similar nature and his or their procedure and rights and powers shall be such as now or hereafter may be prescribed by law in respect to his or their said ordinary duties and powers of a similar nature.

1910, ch. 485, sec. 6.

**826o.** That except in so far as provision is otherwise made in section 3 hereof, with respect to the function of renting, leasing and hiring out conferred upon the Board of Estimates, and in section 4 hereof, with respect to condemnation in connection

with streets, avenues, lanes and alleys, or parts thereof, and in section 5 hereof, each and all of the rights and powers hereby conferred shall be exercised, and the work herein provided for shall be executed by the Harbor Board of Baltimore City, or by any other department, sub-department, board, commission, official or officials, in which or in whom the powers and duties now exercised by said Harbor Board may hereafter be vested, subject, however, to the authorization and approval of the Board of Estimates as aforesaid.

## JONES' FALLS IMPROVEMENT.

### FALLSWAY.

1910, ch. 110, sec. 1.

**826p.** That the Mayor and City Council of Baltimore be and it is hereby authorized and empowered to open, construct and establish a public highway in the City of Baltimore, beginning at or near the northerly end of the City Docks, and running thence northerly along, adjoining or over the bed of Jones' Falls, with a diversion or diversions from said Falls, and with connection with streets crossing said highway, or running near it to Mt. Royal avenue, at or near its junction with Oliver street or Guilford avenue, and to acquire for said purposes landed or other property in the bed of said highway and adjacent thereto on either or both sides thereof.

1910, ch. 110, sec. 2.

**826q.** That before proceeding to open and construct said highway, including the acquiring of property adjacent thereto, the Mayor and City Council of Baltimore shall by ordinance provide therefor, and there shall be designated upon a proper plat the property, landed or other, that is to be acquired in, along or adjacent to said highway.

1910, ch. 110, sec. 3.

**826r.** That the Mayor and City Council of Baltimore is hereby authorized and empowered to delegate to the Commission known as the "Commission on City Plan," the duty and power of opening, constructing and establishing said highway, and to confer by ordinance on said Commission the power to condemn and acquire by purchase or condemnation the lands and property mentioned in the last preceding section of this Act, and such other powers possessed by said Mayor and City Council of Baltimore, relating to the laying out, opening and construction of highways and acquiring property, landed or other, adjacent thereto, as it may deem proper, including the powers vested in it by Chapter 166 of the Acts of the General Assembly of

Maryland, passed at its session of the year nineteen hundred and eight.

1910, ch. 110, sec. 4.

**826s.** That any landed or other property acquired under the provisions of this Act, excepting lands lying in the bed of said highway, may, after said highway has been laid out, be sold by the Mayor and City Council of Baltimore or said Commission, if power to make such sales be, as it may be, delegated by ordinance to said Commission, for such prices, at such times and on such terms as may by ordinance be provided. The moneys arising from such sales are to be paid into the city treasury and kept apart as a separate fund to be known as "Commission on City Plan Fund" and are to be exclusively used by said "Commission on City Plan" for such public improvements as may be approved by said Commission and authorized by ordinance of the Mayor and City Council of Baltimore.

1910, ch. 110, sec. 5.

**826t.** That for the purpose of providing the moneys requisite for opening, constructing and establishing said highway, and purchasing or acquiring said property, the Mayor and City Council of Baltimore is hereby authorized to issue the stock of the said corporation to an amount not exceeding one million (\$1,000,000) dollars, face value thereof, said stock to be issued from time to time and to bear such rate of interest, and to mature at such time or times as the Mayor and City Council of Baltimore, may, by ordinance, provide; provided, however, that said stock shall not be issued in whole or in part unless and until an ordinance of the Mayor and City Council of Baltimore providing for the issuance thereof shall be submitted to the legal voters of the City of Baltimore at such times and place or places as may be fixed by said ordinance and be approved by a majority of the votes cast at such time and place or places as required by section 7, Article 11 of the Constitution of Maryland. If issued pursuant to said approval the Mayor and City Council of Baltimore shall levy in each and every year upon all property liable to taxation in Baltimore City, a sufficient sum to pay the interest on said stock and to create a sinking fund sufficient, with the aid of any premium on the sale thereof, to redeem said stock at maturity.

Under Act of 1910, Chapter 110, Commissioners for Opening Streets may be authorized to open the Fallsway. Benefits may be assessed for opening.

*P. B. & W. v. Baltimore*, 121 Md. 505.

No notice required before Ordinance under Act of 1910, Chapter 110.

*Safe Deposit and Trust Company v. Baltimore*, 121 Md. 523.

Under Act of 1910, Chapter 110. Loan authorized by this Act valid.

*Bond v. Baltimore*, 116 Md. 683.

## MUNICIPAL LIGHTING PLANT.

1900, ch. 152.

**826u.** The Mayor and City Council of Baltimore is hereby authorized to issue its stock to an amount not exceeding one million three hundred and fifty thousand dollars, to be issued from time to time, in such amounts, and payable at such time and bearing such rate of interest as the said Mayor and City Council of Baltimore shall by ordinance prescribe. The proceeds of said issue to be used to provide a public lighting plant to supply said city and the inhabitants thereof with light, but said stock shall not be issued unless the Mayor and City Council shall by ordinance determine to erect and equip such public lighting plant, and unless the ordinance providing for the issue of said stock shall be approved by a majority of the legal voters of said city, east at some time and place to be fixed by said ordinance in a provision for submitting the same to the legal voters of said city, as required by section 7 of Article XI of the Constitution of this State.

This loan has not been submitted to the people.

## POLICE STATION-HOUSES.

1910, ch. 570.

**826v.** That the Mayor and City Council of Baltimore be and it is hereby authorized to issue stock to an amount not exceeding one million dollars; said stock to be issued from time to time as the Mayor and City Council of Baltimore shall by ordinance provide, and to be issued for such amounts and to be payable at such time and to bear such rate of interest as the Mayor and City Council of Baltimore shall by ordinance provide; and the proceeds thereof to be used for the purpose of acquiring by purchase, condemnation or otherwise, land for police station-houses and other buildings for police department purposes and of constructing and re-constructing police station-houses and other buildings for police department purposes, but said stock shall not be issued in whole or in part unless the ordinance of the Mayor and City Council of Baltimore providing for the issuance thereof shall be submitted to the legal voters of the City of Baltimore at such time and place as may be fixed by said ordinance and be approved by a majority of the votes cast at such time and place, as required by section 7 of Article 11 of the Constitution of Maryland.

## SCHOOLS.

Act of 1910, Chapter 92.

**826w.** That the Mayor and City Council of Baltimore be and it is hereby authorized to issue its stock to an amount not ex-

ceeding one million five hundred thousand dollars, said stock to be issued from time to time as the Mayor and City Council of Baltimore shall by ordinance provide; and to be issued for such amount and to be payable at such time and to bear such rate of interest as the Mayor and City Council of Baltimore shall by ordinance provide; and the proceeds of one million two hundred thousand dollars thereof to be used exclusively for the purpose of acquiring by purchase, condemnation or otherwise, land for public school buildings for the elementary schools, and of constructing and reconstructing public school buildings for the elementary schools; and the proceeds of three hundred thousand dollars thereof to be used exclusively for the purpose of acquiring by purchase, condemnation or otherwise, land for public school buildings for the secondary schools and of constructing and reconstructing public school buildings for the secondary schools; but said stock shall not be issued in whole or in part unless the ordinance of the Mayor and City Council of Baltimore providing for the issuance thereof shall be submitted to the legal voters of the City of Baltimore, at such time and place as may be fixed by said ordinance, and be approved by a majority of the votes cast at such time and place as required by section 7 of Article 11 of the Constitution of Maryland.

#### SINKING FUND BONDS.

1910, ch. 549, sec. 1.

**826x.** That the Mayor and City Council of Baltimore be and it is hereby authorized to issue bonds, to be called "General Fund Bonds," in an amount not exceeding three million dollars (\$3,000,000), for the purpose of investing therein certain parts of the revenues and income of the various sinking funds created for the redemption at maturity of the various outstanding certificates of indebtedness and stock issued by the Mayor and City Council of Baltimore; but said bonds shall not be issued in whole or in part unless the ordinance of the Mayor and City Council of Baltimore providing for the issuance thereof shall be submitted to the legal voters of the City of Baltimore at such time and place as may be fixed by said ordinance and shall be approved by a majority of the votes cast at such time and place as required by section 7 of Article 11 of the Constitution of Maryland.

1910, ch. 549, sec. 2.

**826y.** That the "General Fund Bonds" hereby authorized to be issued shall be obligations of the City of Baltimore, like other bonds and stock of said city, and shall be subject to all provisions of law applicable to corporate bonds and stock of the

City of Baltimore which are not inconsistent with the provisions of this section. The faith and credit of the City of Baltimore is hereby pledged for the fulfillment of all the obligations created by the "General Fund Bonds." The Commissioners of Finance in the year nineteen hundred and eleven, and in each and every year until the maturity of all certificates of indebtedness, bonds and stocks heretofore issued by the city, shall set apart out of the revenues and income of each sinking fund, except the income and accumulation thereof derived from assets held by said sinking fund on the first day of January, nineteen hundred and eleven, and except also the income and accumulation thereof derived from the amount to be thus annually set apart, a sum which, with the accumulation of interest thereon, together with the assets of such sinking fund and the earnings and accumulations thereof, shall be sufficient to redeem at maturity all said certificates, bonds or stock redeemable from said fund. As soon as convenient, before the meeting of the Council in the year nineteen hundred and ten, held for the purpose of considering the Annual Ordinance of Estimates, and thereafter at least five weeks before such annual meeting in every year for such purpose, the Commissioners of Finance may, in their discretion, certify to the Board of Estimates the amount estimated by the said Commissioners of Finance as income from all sources from each of said sinking funds during the then calendar year, and the amount required by this section to be set apart for such calendar year out of such revenues and income for the redemption of certificates, bonds or stock to which said fund is pledged. If in any year the estimated amount of revenues or income of any sinking fund or funds, excepting the income and accumulation thereof derived from the assets held by such fund on the first day of January, nineteen hundred and eleven, and from the amounts annually set apart for the redemption of certificates, bonds and stocks as by this section required, shall exceed the amount required to be set apart in such year as in this section provided, the Commissioners of Finance may, in their discretion, at the time of making and certifying to the Board of Estimates, determine to invest the whole or any part of such excess in "General Fund Bonds" for account of such sinking fund or funds; but such investment shall not be made in any year until the amount required by this section to be set apart for such year, as provided herein, shall have been so set apart. The Commissioners of Finance shall then notify the City Register of the amount or amounts, if any, which it has been determined to invest in "General Fund Bonds" during the current year; the City Register, upon their order and upon

receipt of the money thus to be invested, shall issue and deliver to the Commissioners of Finance for account of said fund, "General Fund Bonds," of the face value of the money received; and shall forthwith pay into the City Treasury the money thus received which shall be deemed to be a part of the general fund and be used for the reduction of taxation. "General Fund Bonds" shall be issued to the Commissioners of Finance only, except as hereinafter in this section expressly provided, for account of the sinking funds. They shall bear interest, payable from taxation, at the rate of not more than four per centum per annum, and shall be due and payable at such time as shall be determined by the Mayor and City Council of Baltimore, but not earlier than the year nineteen hundred and fifty-five, and shall in all respects, except as in this section otherwise expressly provided, be like other corporate bonds and stocks of the city. The rights, powers, duties and obligations of the Commissioners of Finance in respect to said "General Fund Bonds," shall be the same in all particulars, except as in this section otherwise expressly provided, as with respect to all other corporate bonds and stocks of said city, in said sinking fund. When any issue of certificates of indebtedness, bonds or stocks, matures and is paid, all "General Fund Bonds" in the sinking fund securing said issue shall be immediately cancelled. If in any year it shall appear to the Commissioners of Finance that the revenues and income of any sinking fund will be insufficient to provide the sum by this section required to be set apart in said year, the said Commissioners of Finance may, in their discretion, notify the Board of Estimates, and upon the written request of the Commissioners of Finance, the said Board shall include in the annual budget for the next ensuing year a sum sufficient, when added to the amount of the estimated revenues and income for that year, to make good the deficiency; and the Council shall have no power to reduce or reject any such appropriation. If at any time it shall be necessary, in order to provide for the redemption of any issue of certificates of indebtedness, bonds or stocks, redeemable from any sinking fund, the Commissioners of Finance may purchase from such sinking fund for account of any other sinking fund, or may sell at public sale to the highest bidder, such amount of "General Fund Bonds" then held by said first-named sinking fund as may be necessary for that purpose. Whenever such "General Fund Bonds" are sold to other sinking funds of this city, or at public sale, there shall be raised annually by taxation and paid into a special sinking fund a sum which, with the accumulation of interest thereon, shall be sufficient to redeem the bonds so sold at maturity; but no annual sum shall be raised



for the redemption at maturity of the principal of any other "General Fund Bonds."

## WATER SUPPLY IMPROVEMENT.

1908, ch. 214, sec. 1.

**826z.** That the Mayor and City Council of Baltimore be and it is hereby authorized and empowered to convert the entire valley or basin of the Gunpowder River, in Baltimore County, and its dependencies, or so much thereof as may be necessary for the purposes of this Act, from the present dam, at the lower end of Loch Raven, in said county, to the upper end of the village of Phoenix, in said county, or to such point above said village as may be necessary or proper for the purposes of this Act, into a reservoir or basin for augmenting and improving the municipal water supply of the City of Baltimore; to create, establish and maintain said reservoir or lake and its appurtenances, and to conduct the waters of said reservoir or lake, along such route, or routes, and in such manner, and by such instrumentalities and means, as may be necessary or proper for the purposes of this Act, including such works, and their appurtenances at Lake Roland, and at or near Baltimore City, as may be necessary or proper for the purposes of this Act, to the City of Baltimore and its environs for the use of said city, and of its inhabitants, and of such other persons as may now or hereafter be lawfully furnished with water by said city, to utilize, appropriate, divert, deflect, straighten, riprap, or otherwise modify or control, for the purposes of this Act, all springs, brooks, creeks, rivulets, rivers or other water courses, tributary (or capable of being rendered tributary) to, or obstructive of, the purposes of this Act; to create, establish, set apart and maintain, regulate and protect, afforest or otherwise improve water sheds and reservations along, and to such full extent of adjacency as may be necessary for the purposes of this Act, adjacent to the waters of said reservoir or lake, for securing a pure, copious, and constant flow of water into said reservoir or lake, to create, establish and maintain, construct, erect, lay, lay out and employ all such dams, walls, bulkheads, dykes, inlets, waste ways, water gates, bridges, tunnels, aqueducts, water ways, conduits, culverts, drains, mains, pipes, settling or other reservoirs, lakes, basins or ponds, power houses, pump houses or other buildings, structures or erections, roads, ways, approaches, appurtenances, agencies, instrumentalities or means, as may be necessary or proper, for the purposes of this Act, including all instrumentalities or means for diverting, deflecting, disposing of, controlling, collecting, confining, impounding,

storing, protecting, clarifying, purifying, transmitting or distributing, or otherwise handling, water that may be necessary or proper for the purpose of promoting or securing the full working efficiency and utility of said reservoir, or lake for the objects for which it is intended by this Act; to incorporate with said reservoir or lake and its appurtenances, for the purposes of this Act, all, or any part, or parts of Loch Raven and its appurtenances or environs, or all or any part, or parts, of Lake Roland and its appurtenances or environs, to utilize, extend, enlarge, reinforce, adapt, reconstruct, alter, re-equip or repair, for the purposes of this Act, or for other purposes affecting the municipal water supply of Baltimore City, all, or any part, or parts, of the present water system of Baltimore City and its appurtenances; to appoint or employ such professional or technical advisers and experts and such agents, assistants, clerks, employes, including all members of the police service hereinafter mentioned, and laborers, skilled or unskilled, of all kinds, as it may deem requisite for the due and proper execution of this Act, and to fix their respective compensations, and to remove and discharge them at its pleasure (except such highly trained, experienced or skilled individuals as it may appoint or employ upon special terms for definite and fixed periods of time) and to exact from them such indemnity bonds for the proper performance of their respective duties as it may deem proper; to purchase, hire or otherwise lawfully obtain the use of all such machinery, apparatus, tools, implements, appliances, supplies, materials and working agencies as it may need for the purposes of this Act; to make and enter into any and all contracts, agreements or stipulations germane to the scope of its powers under this Act; to make all such preliminary surveys and investigations, and to do all such preliminary work under this Act as it may be advised shall be necessary or proper for the purposes of this Act; to acquire by gift, purchase, arbitration, exchange, lease, whatever the duration of the lease, or other like methods of acquisition, or by condemnation, any land or property, public, quasi public, or private, situated wholly or partly in Baltimore County or in Baltimore City, or situated wholly or partly in Anne Arundel County or in any other county of this State, or any interest, franchise, easement, right or privilege therein, which may be required for any of the purposes of this Act, including springs, brooks, creeks, rivulets, rivers or other water courses, mills, factories, and industrial plants of every description and their appurtenances, workshops, stores, farm buildings, structures, and erections, churches, grave yards, school houses, or other school property, dwelling houses, out houses, bridges,

streets, alleys, roads, and ways, and all other buildings, structures, erections, or improvements of every description, on, over, or under, land, or other property, or any interest, franchise, easement, right or privilege therein, and in like manner to acquire any corporate franchises or any other thing including earth, timber, stone, or other materials, or places of temporary or permanent deposit for excavated material or other like facilities for effectuating the objects of this Act, of any sort that may be required for the purposes of this Act; and generally to do and perform all and every such acts or things which, by anything short of a palpably forced construction, could be held to be auxiliary or conducive to the proper exercise of any, or all, of the powers by this Act conferred upon the Mayor and City Council of Baltimore, or to the effective accomplishment of the leading purpose of this Act, namely, the collection, accumulation and maintenance of an ample supply of water in said main reservoir or lake, and its transmission and distribution in as abundant, clear, pure, healthful, convenient and satisfactory a character as possible to the City of Baltimore, and its inhabitants, and such other persons as may now or hereafter be lawfully supplied with water by the City of Baltimore for its and their uses. The title acquired by condemnation, or otherwise, by the Mayor and City Council of Baltimore, under this Act, for the purposes thereof, shall, as to land, or other property, or things required for said main reservoir or lake, or for subsidiary reservoirs, lakes, ponds or basins, or for said water sheds or reserves, or for surface buildings, erections, structures, works or things of a permanent character, involving the idea of exclusive use and occupation by the Mayor and City Council of Baltimore, be in fee simple, but may, as to land, or other property, or things, required for other purposes under this Act, be in fee simple, or limited to some lesser quantum of interest, in point of estate, or duration, accordingly as the Mayor and City Council of Baltimore may determine.

1908, ch. 214, sec. 2.

**826aa.** That the County Commissioners of Baltimore County, or of any other county, whose interests in any respect may become involved in the execution of this Act, or any part or parts thereof, or any body politic, quasi-public corporation, turnpike company, or private corporation, whose interest in any respect may become involved in the execution of this Act, or any part, or parts, thereof, shall be, and is, or are hereby authorized and empowered, anything in the terms of their or its chartered existence or powers, to the contrary notwithstanding, to enter into all such contracts, agreements, stipulations or ar-

rangements, deeds, conveyances or transfers with the Mayor and City Council of Baltimore as may be necessary or proper for the purposes of this Act, or any of them.

1908, ch. 214, sec. 3.

**826bb.** That, when and so often, as resort shall be had to condemnation proceedings under this Act, the procedure, so far as the acquisition by condemnation of any land or property or thing situated within the City of Baltimore, or any interest, franchise, easement, right or privilege therein is concerned, may, in any case, or cases, at the option of the Mayor and City Council of Baltimore, be such as may now, or at any time hereafter, be provided for by any lawful general ordinance, or ordinances of the Mayor and City Council of Baltimore, adopted pursuant to the powers conferred upon it by section 6 of Article 4, entitled "City of Baltimore," of the Code of Public Local Laws of Maryland, title "General Powers," subtitle "Condemnation of Property," for the condemnation of land or property or interest therein for the municipal needs of the City of Baltimore, or such as may be provided for the very purpose by any lawful special ordinance or ordinances of the Mayor and City Council of Baltimore; which said lawful special ordinance or ordinances, the said Mayor and City Council of Baltimore is hereby duly authorized to adopt; provided, that, in every such special ordinance, provision is made for reasonable notice to the owner or owners, and for appeals to the Baltimore City Court, including the right of appeal to the Court of Appeals by any person interested, including the Mayor and City Council of Baltimore, from the decision of the commissioners or other persons appointed to value any such land, property or thing, or interest, franchise, easement, right or privilege therein; but so far as the acquisition by condemnation of any land, or property, or thing situated within Baltimore County, or within any other county of this State, or of any interest, franchise, easement, right, or privilege therein is concerned the procedure shall be that marked out by section 6 of Article 4, entitled "City of Baltimore," of the Code of Public Local Laws of Maryland, title "General Powers," subtitle "Water," but nothing in this Act is to be taken as depriving the Mayor and City Council of Baltimore, of any powers of condemnation now vested in it by law not inconsistent with the provisions of this section.

1908, ch. 214, sec. 4.

**826cc.** Except as hereinafter provided, that all work done or supplies or materials purchased, in carrying out the purposes of this Act, when involving an expenditure of five hun-

dred dollars or more shall be by contract, awarded to the lowest responsible bidder, in accordance with the provisions of sections 14 and 15 of Article 4, entitled "City of Baltimore," of the Code of Public Local Laws of Maryland, or any amendment, or amendments, thereof, or supplement, or supplements, thereto.

1908, ch. 214, sec. 5.

**826dd.** That the powers, by this Act conferred upon the Mayor and City Council of Baltimore, are intended to be in addition to, and not to be in substitution for, any power heretofore conferred by law upon it, in relation to the municipal water supply of Baltimore City, except where inconsistent therewith.

1908, ch. 214, sec. 6.

**826ee.** That the said Mayor and City Council of Baltimore, shall at all times during the progress of said work, and all parts thereof, at its own expense, maintain an efficient police service for the purpose of preserving the public peace, protecting property and preventing crime within the territory occupied or used by it or its employes in the prosecution of said work, or by the employes of contractors or sub-contractors engaged on such work; the officers so employed by said city, to have the power to make arrests of persons offending within such territory anywhere in Baltimore County, or elsewhere in the State; such offenders shall be tried in Baltimore County, and in the event of conviction and imposition of a jail sentence, whether by the Criminal Court, or by the Justices of the Peace having jurisdiction, shall be committed to the Baltimore City Jail instead of to the county jail; and, in all such cases, the Mayor and City Council of Baltimore shall reimburse Baltimore County for all costs and expenses actually incurred by it, including the sum of thirty cents per day for every person committed for trial to Baltimore County Jail, in proceedings against and the trial and commitment of, such offenders, court costs to be pro-rated by the Clerk of the Circuit Court for Baltimore County, upon the basis of time actually consumed in such trials or other proceedings; all such costs to be adjusted and paid semi-annually. Said police service shall be subject to the supervision and direction of the marshal of the police force of Baltimore County.

1908, ch. 214, sec. 7.

**826ff.** Immediately upon the approval of the loan of \$5,000,000, hereinafter mentioned, by the legal voters of Baltimore City, but not otherwise, the Mayor and City Council of Baltimore shall pay to the treasurer of Baltimore County, out of the proceeds of said loan, the sum of thirty-five thousand

dollars, in lieu, and release of, and, as full compensation for, all county taxes due, or to become due, on any and all land, property, or things, acquired, or held, or thereafter to be acquired or held, by said Mayor and City Council of Baltimore, under the loan hereinafter provided for and under the provisions of this Act, or in connection with the work herein contemplated, and thereafter such land, property, or things, when so held or acquired by said city, shall be exempt from taxation for county purposes; all laws, or parts of laws, inconsistent herewith being hereby repealed to the extent of such inconsistency. The object of this section is to indemnify Baltimore County against all loss in taxes, immediate or prospective, that may be entailed upon it by the appropriation for public use, by the Mayor and City Council of Baltimore, of any and all such land, property or things.

1908, ch. 214, sec. 8.

**826gg.** That the Mayor and City Council of Baltimore, in building its proposed conduit from the storage lake herein contemplated to the City of Baltimore, or elsewhere, shall retain title to, and control of, all stone, suitable for said purposes, brought to the surface, from the line of such conduit, where the same is situate in Baltimore County, and shall give the proper authorities of Baltimore County having charge of the roads therein, the option of purchasing so much of said stone as they may require at any time during the progress of such work, and for a period of five years thereafter, at a price not exceeding two cents per cubic yard in the "dump;" such right being subject, however, to the city's prior right to use all of said stone that it may need in the construction of roads, or other works, herein provided for, as contemplated.

1908, ch. 214, sec. 9.

**826hh.** That whenever any public road, or bridge, of Baltimore County shall be destroyed, or rendered impassable, in whole or in part, by the City of Baltimore, in connection with the work herein contemplated, it shall be the duty of said city to replace the same, at its own expense, as nearly as possible, with a suitable and convenient road or bridge in lieu thereof, and, if any such existing public road or bridge, or any bridge or road, so built in lieu of one so destroyed, be on, or through, property acquired by said city for the purposes contemplated by this Act, it shall be the duty of said city thereafter, at all times to maintain the same in good order and repair for the free use of the public, so far as the same may be on or through such

property, subject to such provisions and conditions, looking to maintaining the purity of said city's water supply, as the said Mayor and City Council of Baltimore may by ordinance impose; and provided further, that the said Mayor and City Council of Baltimore shall not have the power, anything in this Act, or in any other Act or law to the contrary notwithstanding, to condemn any such public road or bridge of Baltimore County, but shall have the right to divert, alter, close or destroy any public road or bridge of Baltimore County, when necessary in the course of such work, only by agreement with the Highways Commission of said county, or other proper authorities, having the charge and control thereof, on such terms as to replacing the same for the convenience of the public as may by said Highways Commission, or other proper authorities, be required; in the event that said city and county authorities may not be able to agree upon the terms under which said road or bridge is to be altered, diverted, closed, or destroyed, or upon the location or character of the highway, or bridge to replace the same, or upon any other terms as to the replacing of the same, the matter shall be referred to the Roads Engineer of Baltimore County, for the time being, and the City Engineer of Baltimore City, for the time being, who shall have plenary power to consider and decide all questions in connection with such diversion, alteration, closure, or destruction of such highway or bridge, and to determine where, how, and in what manner, and within what time, the same shall be replaced by the said city, including the right to require that said city shall build bridges over and across the lake contemplated to be formed under this Act; it being in the contemplation of this Act that, under this and the eleventh section of this Act, at least two such bridges shall be built, at locations determined by such engineers to be the most feasible and convenient for the use of the public, injuriously affected by the destruction or alteration of existing bridges and roads. No road or bridge shall be closed or altered, in whole or in part, under the provisions of this Act, until another shall have been constructed and opened to the public in lieu thereof as herein provided, said engineers shall have full power and authority to summon, and require the attendance of, all witnesses, in connection with their inquiries under this section, and to require that their testimony shall be taken under the oath required by law; the same to be administered by the Clerk of the Circuit Court for Baltimore County, or by some Justice of the Peace in and for Baltimore County. The said engineers and the third person hereinafter mentioned, if there be such,

shall each receive a per diem of \$10 while actually engaged in work imposed or authorized by this section, the same and all other reasonable expenses of said engineers, including compensation to witnesses, at the regular rates, and the employment of a secretary, if such employment be deemed necessary by said engineers, to be paid by the City of Baltimore. The decision of said engineers in all matters between the city and Baltimore County that may devolve upon them under this section shall be final and conclusive unless impeached for fraud in appropriate proceedings, instituted in the Circuit Court for Baltimore County in equity, to set aside their findings on such ground. Whenever said engineers may require and determine that the City of Baltimore shall construct a road to replace any road diverted, altered, closed or destroyed, or to be diverted, altered, closed or destroyed, in the course of the work contemplated by this Act, said city shall have power to agree with the owners of land, property, or things, to be taken or injuriously affected in the construction thereof, and, in default of agreement, to condemn the right of way under the provisions of sections 1 and 3 of this Act, authorizing the condemnation of property, land or things for the purposes of this Act, or may, at its election, make application to the Highways Commission of Baltimore County, or other proper authorities for the opening or alteration of such road, in which latter event the proceedings upon application shall be those prescribed by law for the opening or alteration of roads in Baltimore County, except that no land owner shall be assessed for any part of the cost thereof, the whole of such cost to be borne by the City of Baltimore. In the event of disagreement between the said engineers, as to any matter devolved upon them by the terms of this section, they shall call in as a third arbiter, a non-resident engineer, skilled in the construction, or maintenance of highways, and bridges, to be selected by the Governor of Maryland, on the application of either of said engineers, in the event of them being unable to agree on such third person, the decision of any two of the board thus selected to be binding on the parties, and to be final and conclusive, unless impeached for fraud as aforesaid.

1908, ch. 214, sec. 10.

**826ii.** That so soon as the Mayor and City Council of Baltimore shall be ready to begin work under this Act, the Roads Engineer of Baltimore County, for the time being, and the City Engineer of Baltimore City, for the time being, shall, together, make a careful inspection of all public roads, and portions of



public roads, and of all bridges, of Baltimore County, certain or likely, in the opinion of said Roads Engineer, to be used by the Mayor and City Council of Baltimore, or its agents, or contractors, for teaming, or hauling, in connection with said work, and shall thereupon draw up a memorandum, in writing, one duplicate whereof shall be filed and kept in the office of the County Commissioners of Baltimore County, and the other duplicate whereof shall be filed and kept in the office of the Comptroller of Baltimore City, certifying to the precise condition, at that time, in point of repair in their opinion, of all such roads, and portions of roads, and of all such bridges, and thereafter, at regular intervals of six months, there shall be a similar inspection by said officers of all such roads, and portions of roads, and of all such bridges, and immediately after such inspection, said engineers shall, in like manner, draw up a similar memorandum in writing, duplicates whereof shall be filed and kept in like manner as aforesaid, certifying in precise terms to the physical and pecuniary extent, to which, in their opinion, such roads and portions of roads, and such bridges shall have been injured by reason of the extra wear and tear imposed upon them since the next preceding inspection, by such teaming or hauling, and, in said memorandum, the pecuniary extent of said injury shall be computed and set forth in dollars and cents, and, so soon as said memorandum shall be signed by said engineers, and filed in duplicate as aforesaid, the amount of the pecuniary injury, so certified, shall at once become due and payable by the Mayor and City Council of Baltimore out of the proceeds of the loan hereinafter mentioned to the treasurer of Baltimore County, as a fund for the repair of such injury. In the event of disagreement between said engineers as to any matter devolved upon them by the terms of this section of this Act, all the provisions of the next preceding section of this Act, relative to disagreement between said officers as to the diversion, alteration, closure or destruction of highways or bridges of said county, shall likewise be applicable to said disagreement under this section. Said engineers shall have plenary power to consider and decide all questions arising in the discharge of their duties under this section, and shall have the same power to summon and require the attendance of the witnesses, in connection with their inquiries under this section, and to have them sworn, as is provided for in the next preceding section of this Act, and they shall be allowed the same per diem, and other reasonable expenses, including the same compensation to witnesses; all to be paid by the City of Baltimore. The powers

and duties of the City Engineer under this section may, at any time, with the consent of the Mayor of Baltimore City, be delegated by him to one of his assistant engineers, or to some engineer, named by the persons hereinafter charged with the duty of carrying the work under this Act into execution.

1908, ch. 214, sec. 11.

**826jj.** That all powers of acquiring land, property or things, for the purposes of this Act, with or without the consent of the owner, or owners, hereinbefore conferred upon the Mayor and City Council of Baltimore, shall include the power to acquire land, property, or things, including corporate franchises of every sort, rights, privileges, or easements, of any turnpike company, or companies, proprietor or proprietors, but whenever any turnpike, or toll road or bridge, the use of which is now enjoyed by the people of Baltimore County, shall be destroyed, or rendered impassable in whole or in part, by the City of Baltimore, in connection with the work herein contemplated, it shall be the duty of said city to replace the same, at its own expense, as nearly as possible with a suitable and convenient public road or bridge, in lieu thereof, and, if any such existing road, or part thereof, or bridge or any road, or part thereof, or bridge, so built in lieu of one so destroyed, be on, or through, property acquired by said city for purposes contemplated by this Act, it shall be the duty of said city thereafter, at all times, to maintain the same in good order and repair for the free use of the public, so far as the same may be on, or through, said property, subject to such provisions and conditions looking to maintaining the purity of said city's water supply as the said Mayor and City Council of Baltimore may by ordinance impose. Such replacement shall be effected for the convenience of the public upon such terms as may be agreed upon between the Highways Commission of Baltimore County or other proper authorities and the Mayor and City Council of Baltimore. In the event of a disagreement between them as to the location or character of the substituted road or bridge, or as to any other terms of the replacement, the matter shall be referred to the Roads Engineer of Baltimore County, for the time being, and the City Engineer of Baltimore City, for the time being, who shall have plenary power to consider and decide all questions in connection with such replacement and to determine where, how, and in what manner and within what time, said replacement shall be effected by said city. No such road, or part thereof, or bridge of any such turnpike company or companies, proprietor or proprietors, shall be closed or

altered, in whole or in part, under the provisions of this Act, until another shall have been constructed and opened to the public in lieu thereof as herein provided. Said engineers shall have full power and authority to summon, and require the attendance of all witnesses in connection with their inquiries under this section, and to require that their testimony shall be taken under the oath required by law, the same to be administered by the Clerk of the Circuit Court for Baltimore County, or by some Justice of the Peace in and for Baltimore County. The said engineers and the third person hereinafter mentioned if there be such, shall each receive a per diem of \$10 while actually engaged in work imposed or authorized by this section, the same and all the other reasonable expenses of said engineers, including compensation to witnesses at the regular rates, and the employment of a secretary, if such employment be deemed necessary by said engineers, to be paid by the City of Baltimore. The decision of said engineers in all matters between the city and Baltimore County, that may devolve upon them under this section, shall be final and conclusive unless impeached for fraud in appropriate proceedings instituted in the Circuit Court for Baltimore County, in equity, to set aside their findings on such ground. Whenever said engineers may require and determine that the City of Baltimore shall construct a road by way of replacement as aforesaid said city shall have power to agree with the owners of land, property or things to be taken or injuriously affected in the construction thereof, and in default of agreement, to condemn the right of way under the provisions of sections 1 and 3 of this Act authorizing the condemnation of property, land or things for the purposes of this Act, or may at its election, make application to the Highways Commission of Baltimore County or other proper authorities for the opening or alteration of such road; in which latter event the proceedings under such application shall be those prescribed by law for the opening or alteration of roads in Baltimore County, except that no land owner shall be assessed for any part of the cost thereof, the whole of such cost to be borne by the City of Baltimore. In the event of disagreement between the said engineers as to any matter devolved upon them by the terms of this section, they shall call in as a third arbiter a non-resident engineer skilled in the construction or maintenance of highways and bridges, to be selected by the Governor of Maryland, on the application of either of said engineers, in the event of their being unable to agree on such third person, the decision of any two of the board thus selected to be binding on the

parties, and to be final and conclusive, unless impeached for fraud as aforesaid. But nothing in this Act shall be taken as obliging said city to replace any road or part of a road, or any bridge, or a turnpike company or turnpike companies, proprietor or proprietors, if in the opinion of said engineers, the purpose thereof will be reasonably answered, so far as the public convenience is concerned, by a road or bridge constructed, or required to be constructed by way of replacement by said city under the provisions of section 9 of this Act, relating to the diversion, alteration, closure or destruction of public roads or bridges of Baltimore County, nor as obliging said city to replace any public road, or part of a road, or bridge of Baltimore County, under section 9 of this Act, if in the opinion of said engineers, the purpose thereof will be reasonably answered, so far as the public convenience is concerned by a road or bridge constructed, or required to be constructed by way of replacement by said city, under the provisions of this section of this Act.

1908, ch. 214, sec. 12.

**826kk.** That upon the completion of the storage lake herein contemplated, and forever thereafter until such time as Baltimore City's population and needs require the entire water supply, which said city is entitled to draw from the Gunpowder River, the inhabitants of Baltimore County shall be entitled to the use of not more than ten millions of gallons of water per day from such lake, this allotment to include all water supplied directly by said city to consumers or users in Baltimore County, now or hereafter, through the water mains of said city or through any mains or conduits which may be or become a part of, or be or become connected with, the reservoirs, pumping stations, or water distribution system of said city. In case it shall be at any time conclusively demonstrated to the County Commissioners of Baltimore County that there is no other adequate and proper water supply for the residents of any portion of the county making application therefor, said commissioners shall have the right to adopt such measures as they may deem expedient to draw from said lake, and distribute any part or all, the remainder of said allotment of ten millions of gallons of water per day, the said County Commissioners to pay or cause to be paid to said Mayor and City Council of Baltimore such sum as may be agreed upon between them; the same not to exceed the rate of one-half cent per one thousand gallons actually withdrawn. Said County Commissioners shall further have the right and power to use in perpetuity sufficient land near such

lake or reservoir upon which to locate a pumping station or stations, together with conduit connections from said lake or reservoir to a well or wells, or suction well or wells, or reservoir, on said property and other facilities, including rights of way for all necessary purposes to the nearest public highway or highways, upon paying or causing to be paid, therefor to Baltimore City a clear annual rental of five per centum of the gross cost to the city of the land so utilized, said connections and pumping stations shall be located at the most convenient and feasible point or points for the withdrawal of such water at the minimum cost to the authorities withdrawing the same, all water so withdrawn is to be taken from said lake or reservoir and transported therefrom without cost or expense to the Mayor and City Council of Baltimore, the whole of such cost and expense to be borne by the authorities withdrawing the same. The work of making such connections with such lake or reservoir, and laying the pipes through said city's property, contiguous thereto, including the location of said pumping station and other matters in connection therewith shall be done under the joint supervision and control of an official of such county authorities, and the Water Engineer of the City of Baltimore, and in the event of a disagreement between them, they shall call in, as a third arbiter, a non-resident engineer, skilled in the construction or maintenance of water works, to be selected by the Governor of Maryland, on the application of either party; in the event of their being unable to agree on such third person, the decision of any two of the board then selected to be binding on the parties. The cost of calling in such third party shall be borne equally by the parties, unless for special reasons said board shall otherwise apportion the same; provided, however, that in no event shall said County Commissioners of Baltimore County, or Baltimore County, acting through any agency whatever, farm out, assign, sub-let or grant, in whole or in part, to any person, firm, joint stock company, corporation or association, except with the consent in writing of the Board of Estimates of Baltimore City, or its successors in function, the right to withdraw from said lake, use, sell, or in any way distribute or dispose of any of the water so allotted to the inhabitants of Baltimore County, it being the intent of this Act that this right shall in the absence of said consent in writing, be exercisable solely and exclusively by Baltimore County and Baltimore City in the direct and immediate exercise of their respective municipal functions in the manner hereinbefore mentioned.

1908, ch. 214, sec. 13.

**826ll.** That at least thirty days before proceeding under any other of the provisions of this Act, after the popular approval of the loan hereinbefore mentioned, if so approved, said Mayor and City Council of Baltimore shall file in the office of the County Commissioners of Baltimore County, one or more maps showing the existing roads and highways, traversing the property to be acquired under this Act, both public and private, which are to be closed, altered, diverted or relocated, in whole or in part, or the grades thereof changed; and also to show all roads or parts of roads which the Mayor and City Council of Baltimore propose to construct in substitution for, or to take the place of any such roads so closed, obstructed, altered or changed.

1908, ch. 214, sec. 14.

**826mm.** That the Mayor and City Council of Baltimore be and it is hereby authorized and empowered to pass any and all ordinances not inconsistent with the terms of this Act, that it may deem advisable for the purpose of fully effectuating the objects of this Act.

1908, ch. 214, sec. 15.

**826nn.** That all the powers, including powers of condemnation, and duties hereinbefore conferred and imposed, and all the discretion hereinbefore lodged by this Act upon and in the Mayor and City Council of Baltimore, other than the powers of passing ordinances hereinbefore expressly conferred upon it, shall in the name and on behalf of the Mayor and City Council of Baltimore without the necessity for any further legislative action by the Mayor and City Council of Baltimore be exercisable and exercised as one continuous, unbroken delegation of authority by the municipal officials or official who may for the time being have charge of the general municipal water supply of Baltimore city, except that in the event that the charge of said water supply shall at any time or times be confided by law to one municipal official, there shall be associated with him, until said main reservoir or lake and all its working appurtenances and connections of every sort have been completed, in the exercise of all his powers and discretion, and in the discharge of all of his duties under this Act by the appointment of the Mayor, subject to the provisions of section 25 and other related sections of Article 4, entitled "City of Baltimore," of the Code of Public Local Laws of Maryland, and any amend-

ment or amendments thereof, two capable and upright citizens of the City of Baltimore, who shall serve without pay in the award of contracts for work under this Act, the persons clothed with the power of doing the work contemplated by this Act shall be authorized, if they see fit, to insert in the specifications for any such contract work reasonable and lawful conditions as to hours of labor, wages and the residence or character of workmen to be employed by the contractor, and especially so far as may be practicable in their judgment, such reasonable and lawful conditions as will tend to confine employment on such work, in whole or in part, to permanent and bona fide residents of the State of Maryland only, and said persons, clothed with the power of doing the work contemplated by this Act may, with the consent of all of their number, themselves do any part or parts of any such work under such conditions, in every respect, as they may prescribe, by day labor, in which event, said persons, in addition to their other powers in the premises shall likewise be authorized to devise, promulgate and enforce such rules and regulations as will make merit and personal fitness, ascertained by some system of open competition or registration, or both, the sole test of eligibility for all positions or employments under their control that they may see fit to embrace within the scope of said rules and regulations, which, however, may be limited to permanent and bona fide residents of this State in any particular; provided, however, that neither any contractor or contractors, nor the persons clothed with the power of doing the work contemplated by this Act as aforesaid, shall at any time during the progress of said work employ thereon, or permit or allow to be employed thereon, any person who is at the time of such employment, or who shall at any time thereafter and during the progress of such work, be or become a registered voter of Baltimore County, unless such person shall have been a registered voter of said county at the time of the passage of this Act, or shall be a lineal descendant of some person who was at any time theretofore a registered voter of the State of Maryland; any such contractor, subcontractor, superintendent, foreman or the person or persons clothed with the power of doing the work contemplated by this Act or any part thereof, who shall employ any person in violation of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in a sum not less than fifty dollars, nor more than one hundred dollars, or by imprisonment in jail for a term not exceeding sixty days

for each day that such person shall have been so employed in contravention of the provision of this section.

1908, ch. 214, sec. 16.

**82600.** That in order to provide money to defray the cost of carrying all or any of the purposes of the provisions of this Act into execution, the Mayor and City Council of Baltimore is hereby authorized to issue the stock of said corporation for a sum not exceeding five millions of dollars; said stock to be issued from time to time as the Mayor and City Council of Baltimore shall by ordinance prescribe, and to be issued for such amounts, and to be payable at such time and to bear such rate of interest as the Mayor and City Council of Baltimore shall by ordinance provide; said stock shall be sold and issued by the Commissioners of Finance of the City of Baltimore at the best prices obtainable in their judgment therefor, and any premiums derived from the sale thereof shall remain in their hands as part of the sinking fund hereinafter mentioned for the redemption of said stock at maturity. The residue of the money received from the sale of said stock shall be turned over by them to the Comptroller to be by him deposited with the City Register, and to be placed to the credit of a fund to be known as the "Gunpowder Reservoir Fund," which shall be exclusively applicable to the cost of carrying the purposes and provisions of this Act into execution, and shall be chargeable with no other items of cost or expense whatsoever, and appropriation to defray said cost, based upon the estimate of the person charged with the duty of doing the work contemplated by this Act shall be annually included by the Board of Estimates in the usual way in the ordinance of estimates, but said stock shall not be issued in whole or in part unless the ordinance of the Mayor and City Council of Baltimore providing for the issuance thereof, shall be submitted to the legal voters of the City of Baltimore at such time and place as may be fixed by said ordinance and approved by a majority of votes cast at such time and place as required by section 7 of Article 11 of the Constitution of Maryland; if issued pursuant to such approval, the Mayor and City Council of Baltimore shall levy in each and every year upon all property liable to taxation in the City of Baltimore, a sum sufficient to pay the interest accruing on said stock, and to create a sinking fund sufficient, with the aid of any premiums on the sale thereof, to redeem said stock at its maturity.



826pp. Repealed by Act of 1910, Chapter 304.

City must pay for machinery in a cotton mill, if taken under this Act. City not bound where contract obtained by material misrepresentation. Warren Manufacturing Company v. Baltimore, 119 Md. 189.

## STREETS, BRIDGES AND HIGHWAYS.

### OPENING STREETS.

P. L. L., (1888) Art. 4, sec. 806A. Act 1892, ch. 165. 1906, ch. 25.

**827.** Whenever any property shall have been condemned in any form of proceeding for the use of the Mayor and City Council of Baltimore, and in consequence of infancy, insanity or absence from the city of any person or persons entitled to receive any money awarded in any such proceedings, conflicting claims, refusal to accept, or any other cause, such money cannot be safely and reasonably paid to any person or persons, it shall be lawful for the Mayor and City Council of Baltimore to file a bill or petition in any Court of Equity in the city or county where the property is condemned, or any portion thereof, lies, and whenever such Court shall be satisfied that, for any of the reasons aforesaid, that said Mayor and City Council of Baltimore should be permitted to pay the said money into such Court, it shall pass such decree as it shall deem proper, and the payment of any money into Court under any such decree or order shall be considered in all respects equivalent to a tender thereof to any person or persons entitled to such money, and who may be made a party or parties to such proceeding, and upon making such payment, the said Mayor and City Council of Baltimore shall be thereby released from all further liability for the money awarded as aforesaid to any person or persons who may be made a party or parties to such proceeding as aforesaid, and in all cases when one or more persons is or are entitled to an estate for life or years, or an estate tail fee simple, conditional, base or qualified fee, or any other particular, limited or conditional estate in property condemned as aforesaid, and any person or persons is or are entitled to a remainder or remainders, vested or contingent, or an executory devise or devises, or any other interest, vested or contingent, in the same property, if all persons in being who would be entitled to the said property if the contingency had happened at the date of the filing of the aforesaid bill or petition, shall be made parties to such proceeding, the payment into Court of the money awarded for such property shall bind all persons, whether in being or not, who claim or may claim any interest in the said property under any of the parties

to the said cause, or under any person from whom any of the parties thereto claim or from or under or by the original deed or will by which such particular, limited or conditional estates with remainders or executory devises were created, and the said Mayor and City Council of Baltimore shall, upon making such payment, be thereby released from all further liability for the money awarded as aforesaid.

Gardiner v. Baltimore City, 96 Md. 375.

1838, ch. 226. P. L. L., (1860) Art. 4, sec. 838. P. L. L., (1888) Art. 4, sec. 807. 1906, ch. 328. 1912, ch. 32.

**828.** Before they shall pass any ordinance under section 6 of this Article, paragraph "Streets, Bridges and Highways," relating to the laying out, opening, extending, widening, straightening, or closing up, in whole or in part, of any street, square, lane or alley within Baltimore City, notice shall be given by advertisement published twice a week for two consecutive weeks, in two of the daily newspapers in the said city, that application shall be made for the passage of such ordinance, which notice shall set forth clearly, in the case of laying out, opening or extending any street, square, lane or alley, the length or width of such street, square, lane or alley, or part thereof to be laid out, opened or extended, and, in the case of widening or straightening shall set forth clearly both the present and the intended width, and also the length of any street, lane or alley or part thereof intended to be widened or straightened, and in case of closing shall set forth clearly the length and width of the street, lane or alley, or any part thereof, intended to be closed; and notice shall also be given by filing, in the office of the Commissioners for Opening Streets, on or before the first day of such publication, a map on the scale, not smaller than fifty feet to the inch, prepared by some competent surveyor, whose name shall be signed to the same, which, in case of laying out, opening, extending, widening or straightening, shall show the course and the lines of the projected improvement, and also the lots and buildings thereon which shall be taken or destroyed, in whole or in part, and which, in the case of closing shall show the street, lane or alley, or part thereof, intended to be closed, and also the abutting lots and improvements thereon. It shall be the duty of the Commissioners to endorse on said map their names, with the date of it being filed in their office, and to keep the said map where the public may have access to it, whenever said map may be needed for the purpose of being shown at any meeting of the City Council, or

of any committee thereof, they may, on the written order or request of the president of either branch of the City Council, or of the chairman of such committee, and, on obtaining his receipt therefor, allow the said map to be taken from their office for that purpose, to be returned on the following day. At any time before the final passage of said ordinance, said map and said ordinance may be amended, provided such amendment shall not substantially depart from the published notice, so as to substantially affect parties who would not be warned by such notice.

Methodist Protestant Ch. v. Gill, 6 Gill, 391. Stewart v. Mayor, etc., 7 Md. 500. Baltimore v. Bouldin, 23 Md. 370. Page v. Mayor, 34 Md. 558. Mayor, etc. v. Grand Lodge, 44 Md. 436. Dashiell v. Mayor, etc., 45 Md. 616. Mayor v. Little Sisters, etc., 56 Md. 400. Central Savings Bank v. Baltimore, 71 Md. 515. Burk v. Baltimore, 77 Md. 469. Riggs v. Winterode, 100 Md. 447.

*See*, cases under sec. 6, 26a, "*Opening, etc. Streets,*" *ante*.

Notice required. What the map should show.

J. Holmes Whiteley v. M. & C. C., *et al.*, 113 Md. 541.

P. L. L., (1860) Art. 4, sec. 839. P. L. L., (1888) Art. 4, sec. 808.  
1912, ch. 32.

**829.** Before any commissioners appointed by any ordinance of said corporation, under the two preceding 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 ten days before the time of their first meeting to execute the same.

Baltimore v. Bouldin, 23 Md. 370. Central Savings Bank v. Baltimore, 71 Md. 520. Riggs v. Winterode, 100 Md. 447.

How notice shall be published.

J. Holmes Whiteley v. M. & C. C., *et al.*, 113 Md. 541.

1914, ch. 150, sec. 1.

**829a.** That whenever the Mayor and City Council of Baltimore shall hereafter provide by ordinance for the laying out, opening, extending, widening or straightening of any street, square, lane or alley, such ordinance may provide that the Commissioners for Opening Streets shall proceed to acquire the property necessary, in accordance with section 172, and following, of the City Charter, or said ordinance may provide that the property necessary to be acquired for such laying out, opening, extending, widening or straightening, may be acquired by proceedings in the Baltimore City Court under Article 33-A of the Code of Public General Laws and that, after

the damages to be awarded shall have been ascertained by such proceedings, then the Commissioners for Opening Streets shall proceed to assess the benefits for said laying out, opening, extending, widening or straightening, in the same manner as if the damages had been assessed by them under section 175 of the City Charter, and they shall state in the report the amount of damages assessed by the proceedings in Court to the various owners and the expenses of said Court proceedings and their own proceedings. Before any such benefits and damages are assessed there shall be filed with the Commissioners for Opening Streets a profile map or plat showing the grade of the proposed highway, with respect to the abutting property, which map or plat shall be included by the Commissioners in the return to their proceedings.

1914, ch. 150, sec. 2.

**829b.** That, whenever proceedings are instituted under Article 33-A of the Code of Public General Laws by the State of Maryland or the Mayor and City Council of Baltimore, or any department, commission, or board of said city or State, for the acquisition of any property for said State or city situate in Baltimore City, the appraisers appointed by said Court shall make their return within ten days, and, immediately upon the return of the appraisers, the petitioner may pay to the owner of such property the amount of such appraisal and give bond, with penalty to be fixed by the Court and security to be approved by the Court, to pay any additional amount which may be awarded by a jury in said case, and, thereupon, at any time after thirty days thereafter, the petitioner may take possession of the property and proceed with the improvement for which the same is sought to be condemned; and the acceptance of said sum by the property owner shall not prejudice his contention, if he makes such contention, that he should be allowed a larger sum, but the case shall proceed and the jury shall fix the damages to be awarded for said property, as if said payment had not been made, and, in the event that a larger sum is fixed than said payment, the difference shall thereupon be paid to the property owner and the petitioners shall pay the costs, but, if the jury fix a less amount than the appraisal, the property owner shall not be obliged to return any of the amount of appraisal so received, but shall pay all costs of said proceedings, except the compensation to the appraisers. In the event that the owner, or one of the owners, of such property is a minor, insane, unknown, or otherwise incapable of receiving

said payment, or in case the owner or owners of such property refuse to accept said payment, the same may be paid into Court and, upon such payment being made and security given as aforesaid, the petitioners may take possession forthwith of the property so sought to be condemned and the same proceedings shall be had as if the payment were made to the property owner. The property owner may file exceptions to the amount awarded by the appraisers and demand a jury trial thereon at any time before the expiration of the time for taking an appeal from the assessment of benefits by the Commissioners for Opening Streets in the matter of opening, extending, widening, straightening or closing said street. And, in the event that a part only of a lot or of a lot and improvements is taken under sections 1 and 2 hereof, and benefits are assessed by the Commissioners for Opening Streets against the owner of the remainder of said lot or of said lot and improvements, and an appeal is taken from said assessment of benefits, the said appeal shall be filed in the case in which the said part of said lot or of said lot and improvements has been taken, and the exceptions from the award of damages by the appraisers, if such exceptions are filed, and the appeal from the assessment of benefits shall be tried together.

1914, ch. 150, sec. 3.

**829c.** That, upon any appeal being taken to the Baltimore City Court from any action of the Commissioners for Opening Streets, in fixing the damages to be awarded for any property proposed to be taken for a public highway, or part thereof, the said Court, upon application of the Mayor and City Council of Baltimore, may appoint three disinterested appraisers to appraise the damages to be awarded to the owner of said property; said appraisers shall return their appraisal within ten days, and, upon payment of the amount of such appraisal and giving security as hereinabove provided in section 2, the Mayor and City Council of Baltimore may, at any time after thirty days thereafter, take possession of said property and proceed with the improvement. And, thereupon, the said appeal shall be proceeded with in accordance with the provisions of section 2 hereof and the provisions of the City Charter applicable thereto.

1914, ch. 150, sec. 4.

**829d.** That none of the provisions of this Act shall apply to or in any manner affect any case or cases now pending in any of the Courts of the State of Maryland. All such case or

cases shall be heard and tried to final judgment or inquisition under the law or laws in operation before the passage of this Act.

1874, ch. 218. P. L. L., (1888) Art. 4, sec. 812.

**830.** A tenant for ninety-nine years, or for ninety-nine years, renewable forever, or the executor or administrator of such tenant, or the guardian of an infant owner, or a mortgagee in possession, shall be deemed and taken as an owner for the purposes of any application to the Mayor and City Council authorized by this sub-division of this Article; and the application of any such person shall bind the property so represented for any assessment or tax made under an ordinance passed in pursuance of the provisions of this sub-division of this Article.

Holland v. Mayor, 11 Md. 186. Wolff v. Mayor, 49 Md. 446. Handy v. Collins, 60 Md. 229. Mayor, etc. v. Boyd, 64 Md. 10. Galloway v. Shipley, 71 Md. 243.

1833, ch. 182. P. L. L., (1860) Art. 4, sec. 842. P. L. L., (1888) Art. 4, sec. 813.

**831.** 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 thereof surveyed and laid off under the Act of 1817, Chapter 148, or reserves any of the streets, lanes or alleys, or any part thereof, as open, and divides such estate with reference thereto, the Mayor and City Council of Baltimore may, on application of one or more persons interested in the ground to be taken on such application, adopt and sanction by ordinance the principle 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.

1832, ch. 182. P. L. L., (1860) Art. 4, sec. 850. P. L. L., (1888) Art. 4, sec. 814.

**832.** All the streets, lanes, or alleys opened in the manner directed in the 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.

P. L. L., (1860) Art. 4, sec. S51. P. L. L., (1888) Art. 4, sec. S15.

**833.** They may, on application of the owners of a majority of feet in front of any private wharf, dock, street, lane or alley, cause the same to be paved, cleaned out, mended or otherwise repaved or kept in good condition or repair, and may impose upon and collect from all the proprietors of the property so to be cleaned out or repaired, a tax sufficient in amount to defray the expenses thereof, which shall be assessed upon the proprietors in proportion to the number of feet held by them, respectively, in front or length, and shall be collected by the Mayor and City Council of Baltimore as taxes levied for paving public streets.

### GRADES OF STREETS.

1904, ch. 34.

**833a.** Whenever the establishment of the grade of any street, or alley, or part thereof, in the City of Baltimore, shall become necessary, it shall be the duty of the City Surveyor of Baltimore City, and he shall be notified of such establishment by the City Engineer of said city whose duty it shall be to give such notification, to establish such grade and to prepare the profile of the same; and it shall also be his duty to prepare all paving plats whenever the same shall be necessary or their use required for the City of Baltimore.

1904, ch. 34.

**833b.** The compensation for the duties so to be performed by the City Surveyor under this Act shall be fixed by the following table, viz:

For establishing the grade of any street, one square five dollars.

For all over one square, each, three dollars.

For paving plat, each square, five dollars, as provided by section 5, Article 49, of the Baltimore City Code of 1893.

Now Article 37, sec. 5, of the City Code of 1906.

P. L. L., (1860) Art. 4, sec. S54. P. L. L., (1888) Art. 4, sec. S17.

**834.** Whenever the Commissioner 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 Engineer, 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 City Engineer 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 Mayor and City Council of Baltimore to the persons so assessed, and legally entitled to receive the same, the Mayor and City Council of Baltimore may proceed to regrade and pave the said street, lane or alley.

1824, ch. 105. P. L. L., (1860) Art. 4, sec. 857. P. L. L.,  
(1888) Art. 4, sec. 818.

**835.** 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.

Hooper v. Prest. Balto. & Yorktown, etc. Road, 34 Md. 521. M. & C. C. of Balto. v. Turnpike Co., 80 Md. 541.

1894, ch. 123.

**836.** The Mayor and City Council of Baltimore be and it is hereby authorized and empowered to accept from the owners thereof, a deed of the land lying in the bed of Eutaw Place extended, between North Avenue on the southeast and Druid Hill Park on the northwest, in consideration of an agreement on the part of said grantee, to be incorporated therein, that no street car or other railroad tracks shall at any time thereafter be located or placed on any part thereof.

1894, ch. 123.

**837.** That upon the execution of said deed and acceptance thereof by the Mayor and City Council of Baltimore embodying said contract prohibiting the locating or placing car tracks upon any part of the land so to be granted, the said contract shall be and is hereby declared to be forever thereafter inviolable; *provided*, however, that nothing herein contained shall



prevent the Mayor and City Council of Baltimore from authorizing by ordinance the location or construction of car tracks on such part of the bed of said street as are contained within the limits of intersecting or cross streets that are now or may hereafter be provided for by ordinance of said Mayor and City Council of Baltimore.

1910, ch. 621.

**837a.** That the Mayor and City Council of Baltimore be and it is hereby authorized and empowered to authorize and direct the Commissioners for Opening Streets, under such system of procedure, including reasonable notice to the property holders and the right of appeal by either the property holders or the Mayor and City Council of Baltimore, to the Baltimore City Court and the Court of Appeals of Maryland, as it may prescribe, to ascertain and award to the owners of property in the City of Baltimore injuriously affected by the changes in grade provided for by section 3½ of Ordinance No. 387 of the Mayor and City Council of Baltimore, approved August 16, 1909, commonly known as the "Grade Crossing Ordinance." such damages, if any, as they may find to have been actually sustained by and directly caused to said property by reason of such changes in grade, and at the same time to assess against the same such benefits as they may find to have accrued to said owner by reason thereof; provided, however, that nothing in this Act contained shall be construed as imposing any duty or obligation upon the Mayor and City Council of Baltimore, except in the event that said property holders are judicially declared to be disentitled to recover such compensation or damages from the Baltimore and Ohio Railroad Company; and provided further, that in the event of the exercise at any time by the Mayor and City Council of Baltimore of the authority hereby conferred, then nothing in this Act contained shall be construed as depriving the Mayor and City Council of Baltimore of any right it may lawfully have to demand, enforce and receive reimbursement from the Baltimore and Ohio Railroad Company to the full extent of any compensation it may make or damages it may pay in the premises.

#### NORTH AVENUE.

P. L. L., (1860) Art. 4, secs. 858-860. 1878, ch. 59. P. L. L., (1888) Art. 4, sec. 820.

**838.** The bed of North avenue, throughout its entire length, shall in all respects be hereafter held as the bed of any other

street or avenue in Baltimore City, so far as the same be laid down on Poppleton's map of Baltimore City, and subject to all the conditions or requirements of any other street or avenue in said city; and any and all of the ground fronting thereon, whether in Baltimore City or County, shall, in the event of said avenue, or any part thereof, being graded, curbed, paved, shelled, graveled, or in any like manner improved, be subject to the same assessment for the cost of said grading, curbing, paving, graveled, shelling or like improvement, as would be the case with ground fronting on any other street or avenue in the city, similarly to be improved as aforesaid, and such ground and the owners and representatives thereof shall in such event be held liable for said assessments, and the said avenue be subject to all the Acts of Assembly and ordinances of the Mayor and City Council of Baltimore which are now or may be hereafter in force and applicable for grading, curbing, paving, graveled, shelling or any like improvement of streets or avenues in Baltimore City.

Baltimore City v. Porter, 18 Md. 284. Mayor, etc. v. Horn, 26 Md. 194. Lester v. Mayor, 29 Md. 419.

### YORK ROAD.

1906, ch. 62, sec. 1.

**838a.** It shall not be lawful for any person, corporation, municipality, commission, engineer, agents, or employes of such corporations, municipalities, or engineers or commission, to lay any cobblestone or macadam for street paving purposes upon the York road between North avenue and the city line in the City of Baltimore, without the consent of the General Assembly of Maryland.

### NEW BOUNDARY AVENUE.

1914, ch. 611.

**838b.** That the bed of New Boundary avenue in Baltimore City, as now laid out, shall in all respects be hereafter held as the bed of any other street or avenue in Baltimore City; and any and all of the ground fronting thereon, in Baltimore County, shall in the event of said avenue, or any part thereof, being graded, curbed, paved or in any like manner improved, be subject to the same assessment for the cost of said grading, curbing, paving, or like improvement as would be the case with ground fronting on any other street or avenue in the City of Baltimore, similarly to be improved as aforesaid; and such

ground and the owners and representatives thereof shall in such event be held liable for said assessments.

### BRIDGES AND HIGHWAYS.

1888, ch. 98, sec. 27. P. L. L., (1888) Art. 4, sec. 824.

**839.** The bridges which the County Commissioners of Baltimore County have heretofore agreed to build within the limits of the territory which has become annexed to Baltimore City under the Act of 1888, Chapter 98, shall be completed by the City of Baltimore; and all bridges within the limits of said territory shall be maintained and kept in repair for public travel at the expense of Baltimore City; all bridges crossing the Patapasco River from said city, including the bridge known as the "Long" or Light Street Bridge shall be maintained and kept in repair for public travel at the sole expense of the said City of Baltimore.

*Pumphrey v. Mayor*, 47 Md. 145.

As to liability of municipality for defective construction or condition of bridges, *see*, *Co. Commissioners of Harf. Co. v. Wise*, 71 Md. 43.

P. L. L., (1888) Art. 4, sec. 824-½. 1894, ch. 576. 1902, ch. 453.  
1904, ch. 433. 1906, ch. 158.

**840.** No avenues, streets or alleys within the territory annexed to the City of Baltimore by the Act of 1888, Chapter 98, shall hereafter be opened, established or condemned, nor shall the dedication of any avenue, street or alley in said territory be hereafter accepted by the Mayor and City Council of Baltimore unless the same shall be approved in writing by the Topographical Survey Commission, consisting of the Mayor, Comptroller and Register of the City of Baltimore, or unless the said avenues, streets or alleys be so opened, established, condemned or dedicated that the lines and grades thereof shall conform to the general plan of streets for the annex as adopted under ordinance No. 129, approved December 3rd, 1898, or as said plan shall be amended in accordance with the provisions of this section, that is to say; with the approval of the afore-said Topographical Survey Commission, the Mayor and City Council of Baltimore may by ordinance, from time to time and in any manner, alter or amend the said general plan of streets, and the said Mayor and City Council of Baltimore may thereafter by ordinance open, establish or condemn, or the Mayor of Baltimore City may receive a deed for any avenue, street or alley laid down on the said general plan of streets as amended, or if any such avenue, street or alley shall be dedicated the

same may thereafter be accepted; said Topographical Survey Commission is hereby authorized to make such rules and regulations regarding surveys, plats or plans relating to the location of avenues, streets or alleys as they may deem proper from time to time.

*Sindall v. Baltimore City*, 93 Md. 529.

As to dedication of streets, *see*, *M. & C. C. of Baltimore v. N. C. Ry. Co.*, 88 Md. 427.

1908, ch. 582. 1912, ch. 659, sec. 1.

**840a.** That every private street, lane, alley or way in the City of Baltimore which shall be hereafter laid out and opened, and which for a period of one year shall connect with, open into, or lead to or from any public street, lane, alley or way of said city, and passage between which said private street, lane, alley or way and said public street, lane, alley or way shall not be barred or obstructed by a wall, fence or similar structure erected along the dividing line between them, either without a gate or gates therein, or with a gate or gates, which shall be kept closed at all times except when in actual use, shall be conclusively presumed to have been dedicated by the owner or owners thereof to public use as public highways, and may, at any time thereafter be accepted as public highways, either by ordinance of the Mayor and City Council of Baltimore or in any other manner in which a dedication of land to public use made in any other way be accepted. The preceding provisions of this act shall not apply to any private streets, lanes, alleys or ways laid out after the passage of this amended act, upon plans approved by the Topographical Survey Commission of Baltimore City, whose owner or owners shall declare them to be private by placing and maintaining a sign or signs at or near the junction or junctions of such private streets, lanes, alleys or ways with such public streets, lanes, alleys or ways on which sign or signs shall be marked the words "Private Way," provided and so long as such owner or owners do not grant in such private streets, lanes, alleys or ways, for a longer period than twenty-five years, any franchise, right or easement for a railway or for pipe or conduits for supplying electricity, gas, water or steam or for any other use that would be in the nature of a public service franchise.

1912, ch. 659, sec. 2.

**840b.** That nothing herein contained shall affect any right acquired by the Mayor and City Council of Baltimore City

under said Act of 1908, Chapter 582, prior to the passage of this Act.

1908, ch. 583.

**840c.** That every private street, lane, alley or way now existing in the City of Baltimore, which for a period of one year from the passage of this Act, shall connect with, open into, or lead to or from any public street, lane, alley or way of said city, and passage between which said private street, lane, alley or way, and said public street, lane, alley or way shall not be barred or obstructed by a wall, fence or similar structure erected along the dividing line between them, either without a gate or gates therein, or with a gate or gates which shall be kept closed at all times except when in actual use, shall be conclusively presumed to have been dedicated by the owner or owners thereof to public use as public highways, and may, at any time thereafter, be accepted as public highways, either by ordinance of the Mayor and City Council of Baltimore or in any other manner in which a dedication of land to public use made in any other way, may be accepted.

This Act was approved April 8, 1908.

P. L. L. (1888) Art. 4, sec. 824A. 1890, ch. 628.

**841.** All streets, avenues or alleys lying in that portion of Baltimore City, formerly constituting a portion of Baltimore County, and in pursuance of the Act of the General Assembly of Maryland of 1888, Chapter 98, recently annexed to the said City of Baltimore, which had prior to such annexation become streets, avenues or alleys in Baltimore County, whether by deed or dedication, shall be held for all purposes to validly constitute streets, avenues or alleys of Baltimore City, in all respects as if the same had been legally condemned as such by the Mayor and City Council of Baltimore.

Park Tax Case, 84 Md. 1. Baltimore City v. Broumel, 86 Md. 155. Clendenin v. Md. Construction Co., 86 Md. 86.

## ANNEX IMPROVEMENT LOAN AND COMMISSION.

1904, ch. 274, sec. 1.

**841a.** The Mayor and City Council of Baltimore is authorized to issue stock to an amount not exceeding two million dollars, to be issued from time to time and payable at such time and bearing such rate of interest as the said Mayor and City Council of Baltimore shall by ordinance prescribe; provided, however, that not more than five hundred thousand dollars of said stock shall be issued in any one year. The proceeds of

the sale of said stock shall be used only for the purpose of providing the costs and expenses of condemning, opening, grading, paving and curbing the streets, avenues, lanes and alleys of the Annex portion of Baltimore City. The certificates of stock shall not be issued and the commission hereinafter created shall not be appointed unless and until the ordinance which the Mayor and City Council of Baltimore are hereby authorized to pass for the purpose aforesaid shall be approved by a majority of the votes of the legal voters of the City of Baltimore, cast at the time and place to be appointed by said ordinance in the provisions for submitting the same to the legal voters of said city.

1904, ch. 274, sec. 2.

**841b.** The Mayor of the City of Baltimore (if the loan provided for in the next preceding section of this Article shall be approved) is authorized to appoint, in the manner prescribed in section 25 of this Article, four capable and upright citizens, property owners and residents of the Annex portion of Baltimore City, two of whom shall be members of the Republican party, who together with the Mayor, Comptroller, City Engineer and Commissioners for Opening Streets, as *ex-officio* members, shall constitute a special commission, to be known as the "Annex Improvement Commission," and who shall continue in office until the work of said commission has been completed; in case of death, resignation or removal from office of any of said commission, the Mayor shall have authority to appoint another to fill said vacancy. The members of said commission, other than the *ex-officio* members, shall receive compensation for their services at the rate of fifteen hundred dollars per annum, except the chairman thereof, who shall receive compensation at the rate of two thousand dollars per annum. A majority of the members of said commission shall be a lawful quorum for the transaction of business. As soon as the appointed members of said commission shall have qualified, they shall organize by the election of one of its members as chairman of said commission, who shall be removable at pleasure by said commission and who shall preside over the meetings of said commission and perform such other duties as are imposed on him by this sub-division of this article, or may be assigned to him by said commission; and they shall elect a secretary, not a member of said commission who shall be removable at pleasure of said commission, and receive compensation not to exceed the sum of twelve hundred dollars per annum; the said secretary shall keep a record of the proceedings of said commission and perform such other

duties as are imposed or assigned to him by said commission. All records of said commission shall be public, and the commission shall make annual reports to the Mayor and City Council of Baltimore of its official transactions and all expenditures. The Mayor and City Council of Baltimore shall provide proper offices for said commission. The said commission shall have authority and power to employ any help or assistance necessary to promote the object and purpose of this commission and its work, and to fix the compensation of such help and to remove or discharge them at their pleasure; also to purchase necessary office furniture and stationery.

1904, ch. 274, sec. 3.

**841c.** Said commission shall have the right and power to condemn, lay out, open, extend, widen, straighten, close, grade and pave any street, avenue, lane or alley or any part thereof, from curb to curb; and to establish and fix the building line and the width of the sidewalks on any street, avenue, lane or alley now existing or to be laid out, opened, extended, widened, straightened, graded or paved in the Annex portion of the City of Baltimore. Said commission shall have all powers necessary and proper in the exercise of said powers; and the Mayor and City Council of Baltimore is hereby authorized and empowered to grant by ordinance any further powers and duties it shall deem necessary for the proper execution of the improvements intended to be made by this Act.

*Flack v. M. & C. C. of Baltimore*, 104 Md. 107.

1904, ch. 274, sec. 4.

**841d.** Immediately after the appointment and organization of said commission it shall cause to be prepared for its guidance and use a map or maps of the entire Annex portion of the City of Baltimore or any part or parts thereof, showing the streets, avenues, lanes and alleys and the number of houses situated in and the area of each block of ground in said Annex, and such other information as may be desired. The said commission is hereby authorized to direct any municipal officer, agent, employe or board of the Mayor and City Council of Baltimore to furnish such maps and information and to give such other assistance, information and advice as may be requisite to enable said commission to have prepared such map or maps and put such proposed changes, additions or improvements on them, and to give such other assistance, advice and information as said commission may require to carry into effect its work under this Act.

1904, ch. 274, sec. 5.

**841e.** The said commission hereby created shall be the agent of the Mayor and City Council of Baltimore to acquire by gift, purchase, lease, whatever the duration of the lease, or by other methods of acquisition or by condemnation, any private property whatsoever, including streets, avenues, lanes and alleys, rights or interests, franchises, privileges or easements, that may be required to open, widen, extend, straighten, close, grade or pave any street, avenue, lane or alley, or to broaden any sidewalk; and as soon as the title to the property acquired as set forth herein has been certified by the City Solicitor, said commission shall have the same conveyed to the Mayor and City Council of Baltimore, and no ordinance shall be requisite to the validity of such conveyance; said streets, avenues, lanes and alleys so conveyed shall become public highways, subject to all ordinances and resolutions relating to streets, avenues, lanes and alleys in the City of Baltimore. Authority is hereby conferred upon the Mayor and City Council of Baltimore to provide by ordinance or ordinances the proceedings for condemnation of property as herein set forth by the said commission.

Flack v. Mayor, etc., Baltimore, 104 Md. 107.

1904, ch. 274, sec. 6.

**841f.** No money shall be expended by said commission to pay for the improvement of sidewalks in the said Annex, but same shall be done at the expense of the owner or owners of property along and upon the streets, avenues or lanes on which the said sidewalks are to be placed; authority is given said commission to assess said property for the cost and expenses of said sidewalks, and to collect the same as now prescribed by law or ordinances.

1904, ch. 274, sec. 7. 1908, ch. 169.

**841g.** That said commission is hereby authorized and empowered to contract, subject to the provisions of sections 14 and 15 of the Baltimore City Charter, with any person, persons, company or corporation for the work of opening, grading, curbing and paving the streets, avenues, lanes and alleys of the Annex, as intended by this Act, or to employ the necessary laborers, help and assistants, skilled and unskilled, and perform the work under their own supervision. The costs and expenses of said work, and all necessary expenses of this commission to be paid out of the loan, as provided in section 1 of



this Act, upon vouchers, approved by the said commission or its chairman, and presented to the Comptroller and City Register of the City of Baltimore.

1904, ch. 274, sec. 8.

**841h.** The Mayor and City Council of Baltimore shall prescribe by ordinance the methods and proceedings for the sewerage and drainage of said Annex and to provide the costs and expenses of same out of any fund or funds now or hereafter available.

1904, ch. 274, sec. 9.

**841i.** The said commission is hereby authorized as its work progresses to turn over from time to time, such completed portions of said work as it may see fit to the charge, superintendence and control of the proper city officials, and shall on the termination of its work turn over all the records, writings, maps, reports to the Commissioner for Opening Streets, to be by him preserved and to be used as the papers and records of his office.

1904, ch. 274, sec. 10.

**841j.** Provided, however, in lieu of said commission hereinbefore provided for in section 2 of this Act, the Mayor and City Council of Baltimore may by ordinance authorize and empower the Commissioner for Opening Streets of Baltimore City to perform the duties and functions in this bill heretofore provided for the said commission.

1910, ch. 736, sec. 1.

**841k.** That the Commissioners for Opening Streets of the City of Baltimore are hereby constituted a commission to be known as the Annex Improvement Commission, and as such in addition to their ordinary duties are hereby vested and clothed with all the powers and rights in this Act contained, and are hereby authorized, empowered and directed to carry into effect all the provisions of this Act. As compensation for their services hereunder the Mayor and City Council of Baltimore may in its discretion award the said Commissioners such annual sum as it may deem proper in addition to the compensation to which they are respectively entitled for discharging the ordinary duties of their office, provided that the total compensation received by each of said Commissioners shall in no event exceed the sum of two thousand five hundred (\$2,500)

dollars per annum. The clerk of said Commissioners shall act as their secretary in connection with the powers and duties hereby conferred, and for his services in this connection, the Mayor and City Council of Baltimore may, in its discretion, award him such annual sum as it may deem proper, in addition to the compensation to which he is entitled for discharging the ordinary duties of his office as clerk; provided that his total compensation shall in no event exceed the sum of two thousand (\$2,000) dollars per annum. The said secretary shall keep a record of all proceedings of the Commission, and shall enter in a well-bound book and carefully preserved, neat, legible and accurate minutes of all meetings of the Commission, and he shall perform all such other duties as usually appertain to the office of secretary of a private corporation, or as may be imposed upon him by this Act or as may be assigned to him by the Commission, shall annually make to the Mayor a detailed report of all its official transactions and expenditures. The said Commission shall have authority and power, subject to the approval or ratification of the Board of Estimates, to employ any help or assistance necessary to promote the object and purpose of this Commission and its work, and to fix the compensation of such help and to remove or discharge them at their pleasure; also to purchase necessary office furniture and stationery.

Commissioners for Opening Streets authorized to make assessments for benefits in opening streets in the Annex.

Leon Lauer v. M. & C. C., *et al.*, 110 Md. 447.

1910, ch. 736, sec. 2.

8411. That upon the completion by the Annex Improvement Commission created by Chapter 274 of the Acts of the General Assembly of Maryland of 1904, (the power and functions of which commission have been and are being exercised by the Commissioners for Opening Streets pursuant to Ordinance No. 216, of the Mayor and City Council of Baltimore, approved March 6, 1905) of all its work pending at the time of the approval by the people of the loan hereby authorized, the said Commission shall be taken to have been superseded in every respect by the Commission hereby created, shall thereupon be entitled to the possession and custody of all maps, plats, blue-prints, sketches, surveys, books, papers, documents, writings, letters and chattels of and belonging to said former Commission, and also to any unexpended balance remaining out of the proceeds of the said loan authorized by the said Act of

1904, which unexpended balance, if any, shall be placed to the credit of the special fund hereinafter provided for and used by the Commission created by this Act in the manner authorized by this Act, for carrying out any of the powers and duties hereby conferred.

1910, ch. 736, sec. 3.

**841m.** That said Commission shall have the right and power and under and in pursuance of any general or special ordinance or ordinances of the Mayor and City Council of Baltimore which may be passed therefor to grade and pave any street, avenue, lane or alley or any part thereof from curb to curb, and to establish and fix the building line and the width of the sidewalk on any street, avenue, lane or alley now existing or to be laid out, opened, extended, widened, straightened, graded or paved in the annex portion of the City of Baltimore. That said Commission shall have all powers necessary and proper in the exercise of said powers; and the Mayor and City Council of Baltimore are hereby authorized and empowered to grant by ordinance any further powers and duties it shall deem necessary for the proper execution of the improvements intended to be made by this Act.

1910, ch. 736, sec. 4.

**841n.** That all work done or supplies or materials purchased in carrying out the purposes of this Act, when involving an expenditure of five hundred dollars (\$500.00) or more, shall be by contract awarded by the Board of Awards to the lowest responsible bidder, in accordance with the provisions of sections 14 and 15 of Article 4, entitled "City of Baltimore," of the Public Local Laws of Maryland, including the powers conferred by said section 15 upon the Board of Awards to select the particular thing to be adopted in the case of alternative bids; provided, however, that the Mayor and City Council shall have the power to prescribe by ordinance as to any particular street or streets that the contract for paving or curbing, repaving or re-curbng the same shall be awarded to the lowest responsible bidder complying with the call for bids, whether bids are asked for, for one or more than one kind of pavement, reserving to the Board of Awards the right to reject all bids and to call for new bids.

1910, ch. 736, sec. 5.

**841o.** That the said Commission hereby created shall be

the agent of the Mayor and City Council of Baltimore to acquire by gift, purchase, lease, whatever the duration of the lease, or other methods of acquisition, or by condemnation, any private property whatsoever, including streets, avenues, lanes and alleys, rights or interests, franchises, privileges or easements, that may be required to open, widen, extend, straighten, close, grade or pave any street, avenue, lane or alley, or to broaden any sidewalk, and as soon as the title to the property acquired as set forth herein has been certified by the City Solicitor, said Commission shall have the same conveyed to the Mayor and City Council of Baltimore, and no ordinance shall be requisite to the validity of such conveyance; said streets, avenues, lanes and alleys so conveyed shall become public highways, subject to all ordinances and resolutions relating to streets, avenues, lanes and alleys in the City of Baltimore; that authority is hereby conferred upon the Mayor and City Council of Baltimore to provide by ordinance or ordinances the proceedings for condemnation of property as herein set forth by the said Commission.

Wrong advertisement. Party must appeal to City Court. Court of Equity no jurisdiction.

John Wannewetsch *et al.*, v. M & C. C., 111 Md. 32.

Under Act of 1904, Chapter 274, Annex Improvement Commission have power to close, as well as open and widen streets. The fact that a street closing is of special benefit to certain property is not conclusive that it is not also for a public purpose.

Baltimore v. Brengle, 116 Md. 343.

1910, ch. 736, sec. 6.

841p. That no expenditure shall be made by said Commission for the grading, paving or improvement of said sidewalks in the annex portion of said city, but the same shall be done at the expense of the owner or owners of the property upon and along the streets, avenues, lanes or alleys on which such sidewalks are to be established, widened, graded, paved or otherwise laid out and improved; and the said Commission in its discretion is authorized and empowered to require said property owners to grade, pave and improve said sidewalks at their expense, or upon their failure to do so the Commission may do such work itself and assess said property for the cost and expenses of such work, and the procedure and rights and powers of the Commission with respect to such work and to such assessments and the collection thereof shall be that now or hereafter prescribed by law in relation to the duties of a similar nature with which the City Engineer and other officers of the city

are now or may be respectively clothed, or the procedure and the rights and powers of said Commission may be such as may be provided for the very purpose by any lawful ordinance or ordinances of the Mayor and City Council of Baltimore, which said ordinance or ordinances the Mayor and City Council of Baltimore is hereby fully authorized to adopt, provided provision is made in such ordinance or ordinances for reasonable notice to the owner or owners and for appeals to the Baltimore City Court, and the right of appeal to the Court of Appeals by any person interested, including the Mayor and City Council of Baltimore.

1910, ch. 736, sec. 7.

841q. That the Mayor and City Council of Baltimore be and are hereby authorized to issue stock to an amount not exceeding two million five hundred thousand dollars, to be issued from time to time and payable at such time and bearing such rate of interest as the said Mayor and City Council of Baltimore shall by ordinance prescribe; provided, however, that not more than five hundred thousand dollars of said stock shall be issued in any one year. The proceeds of the sale of said stock shall be used only for the purpose of providing the costs and expenses of condemnation, opening, grading, paving and curbing the streets, avenues, lanes and alleys of the annex portion of Baltimore City; said stock shall be sold and issued by the Commissioners of Finance of the City of Baltimore at the best prices obtainable in their judgment therefor, and any premiums derived from the sale thereof shall remain in their hands as part of the sinking funds hereinafter mentioned for the redemption of said stocks at maturity. The residue of the money received from the sale of said stock shall be turned over by them to the Comptroller, to be by him deposited with the City Register, and to be placed to the credit of a special fund, to be known as the "Annex Improvement Fund," which shall be exclusively applicable to the purposes in the section above specified, and shall be chargeable with no other items of cost or expense whatever; provided, however, that not more than five hundred thousand dollars (\$500,000.00) of said stock shall be issued for any one year after appropriations for the cost of said work shall have been duly included and allowed for each year in the usual way in the ordinance of estimates, then, upon the written requisition of the Commission or of its president the Comptroller shall draw his warrant upon the City Register, payable out of such appropriations from said special fund for the amount of all

items of cost or expense properly chargeable upon said special fund; but said stock shall not be issued in whole or in part unless the ordinance of the Mayor and City Council of Baltimore providing for the issuance thereof shall be submitted to the legal voters of the City of Baltimore at such time and place as may be fixed by said ordinance, and be approved by a majority of the votes cast at such time and place as required by section 7 of Article 11 of the Constitution of Maryland. If issued pursuant to such approval, the Mayor and City Council of Baltimore shall levy in each and every year upon all property liable to taxation in the City of Baltimore a sum sufficient to pay the interest accruing on said stock and create a sinking fund sufficient, with the aid of any premiums on the sale thereof, to redeem said stock at its maturity.

1910, ch. 736, sec. 8.

**841r.** That while the work authorized by this Act is being done by said Commission, no rights or powers now or hereafter possessed by the Mayor and City Council of Baltimore, or any department, sub-department or official thereof, shall be abrogated, abridged or in anywise altered by the provisions hereof, except in so far as the exercise of the same in the annex portion of the city may be inconsistent with the provisions of this Act; and said Commission is hereby authorized, as its work progresses, to turn over from time to time, in its discretion, such complete portion of said work as it may see fit to the proper city officials, including themselves in their ordinary capacity as Commissioners for Opening Streets, and upon determination of said work to turn over records, writings, maps, surveys, reports and papers, and all property and effects in their possession to themselves in their ordinary capacity as Commissioners for Opening Streets, to be by them preserved, used or disposed of as may be lawful and proper. The Mayor and City Council of Baltimore shall prescribe by ordinance the methods and proceedings for the sewerage and drainage of said annex, and to provide the costs and expenses of the same out of any fund, funds, now or hereafter available for that purpose.

1910, ch. 736, sec. 9.

**841s.** That Ordinance No. 151 of the Mayor and City Council of Baltimore, approved June 15, 1906, entitled "An Ordinance granting the Commissioners for Opening Streets further powers and duties in the matter of grading, paving and curbing streets, avenues, lanes and alleys or parts thereof in the annex,

in addition to the powers and duties expressly conferred and imposed upon them by the provisions of Chapter 274, of the Acts of the General Assembly of Maryland for the year 1904," and Ordinance 216 of the Mayor and City Council of Baltimore, approved March 6, 1905, is hereby continued with like force and effect as if the same had been ordained after the passage of this Act, and after approval by the people of the loan hereby authorized and the rights and powers by said ordinance conferred and the provisions thereof and the procedure therein prescribed may be availed of by the Commission hereby created to the same extent as if said Commission were expressly named in said ordinance but said ordinance shall be subject to repeal, modification or amendment by the Mayor and City Council of Baltimore as other municipal ordinances.

1910, ch. 736, sec. 10.

**841t.** That any and all moneys collected for benefits pursuant to the exercise of any of the powers hereby granted shall be placed to the credit of the special fund herein provided for, and may be appropriated and expended for the purpose of this Act.

Annex Loan Act of 1904, Chapter 274, construed.  
City v. Flack, 104 Md. 107.

## PAVING COMMISSION AND \$5,000,000 PAVING

### LOAN.

1906, ch. 401, sec. 1.

**841u.** The Mayor of the City of Baltimore is authorized to appoint in the manner prescribed by section 25, of Article 4 (entitled "City of Baltimore") of the Public Local Laws of Maryland, and subject to the condition that two of the appointees shall be members of the minority party within the meaning of section 30 of said Article, five capable and upright citizens of the City of Baltimore, who, together with the Mayor himself *ex-officio*, shall constitute a Special Commission, to be known as the Paving Commission of the City of Baltimore, and who shall continue in office from year to year until the work of said Commission under this Act, as limited by the pecuniary provision hereinafter made therefor, has been completed. If, however, the Second Branch of the City Council of the City of Baltimore shall reject three several and successive nominations by the Mayor to any position on said Commission, he shall be empowered to make an appointment thereto without its con-

firmation. All persons appointed to said Commission shall qualify and be subject to removal by the Mayor (except that there shall be no removal at any time save for cause after charges preferred) as prescribed by said section 25 of Article 4 (entitled "City of Baltimore") of the Public Local Laws of Maryland. Any member of said Commission may at any time resign therefrom by tendering his resignation in writing to the Mayor, and any vacancy in said Commission occasioned by the resignation, removal, death or permanent absence from this State of the incumbent, or by supervening incapacity upon his part, whether physical or mental, to discharge his duties or by any other cause operating such a vacancy, either actually or in effect, shall be filled by the Mayor in the manner and subject to all the conditions as to minority representation, qualification and removal hereinbefore provided for as to original appointees to said Commission. All the members of said Commission except the Chairman thereof, as hereinafter provided, shall serve without compensation, and a majority of said members shall be a lawful quorum for the transaction of business. So soon as the appointive members of said commission shall have qualified they shall, with the Mayor acting as a member of said commission, *ex officio*, organize by the election of one of the members of said Commission as Chairman of said Commission, who shall be removable at pleasure by said Commission, shall receive such compensation as it may determine, not exceeding the sum of \$2,500 per annum, and shall preside over the meetings of said Commission and perform such other duties as are imposed upon him by this Act, or as may be assigned to him by said Commission, and by the election of a secretary, not a member of said Commission, who shall be removable at pleasure by said Commission, shall receive such compensation as it may determine, not exceeding the sum of \$1,500 per annum and shall enter in a well bound book and carefully preserve neat, legible and accurate minutes of all meetings of said Commission, and perform such other duties as usually appertain to the office of secretary of a private corporation, or as are imposed upon him by this Act, or as may be assigned to him by said Commission. All sessions or meetings of said Commission shall be open and public; and all its records shall be public records, and it shall annually make to the Mayor a detailed report of all its official transactions and expenditures.

1906, ch. 401, sec. 2. 1908, ch. 202.

841v. That the said Commission be and it is hereby em-



powered to grade, shell, gravel, macadamize, pave or otherwise surface and curb; re-grade, re-shell, re-gravel, re-macadamize, re-pave or otherwise re-surface and re-curb, according to such general and comprehensive plan or plans in the premises as may be adopted by it, all such public lanes, alleys, avenues, streets or highways, or all such parts thereof in the City of Baltimore, as in the judgment of the said Commission should be so graded, shelled, gravelled, macadamized, paved or otherwise surfaced and curbed, re-graded, re-shelled, re-graveled, re-macadamized, re-paved or otherwise re-surfaced or re-curbed. And at the election of said Commission to assess the cost of any such work, in whole or in part, upon the property binding upon such public lanes, alleys, avenues, streets or highways, according to such mode of procedure as shall be prescribed by the Mayor and City Council of Baltimore by ordinance or ordinances, which ordinance or ordinances the Mayor and City Council of Baltimore is hereby empowered to pass; provided, however, that reasonable notice and opportunity to be heard shall be required by the Mayor and City Council of Baltimore to be given, and shall be given by said Commission to all persons interested before the final ascertainment of the amount of assessment to be paid by any such property; and provided, however, further, that provision shall be made by the Mayor and City Council of Baltimore for the right of appeal to the Baltimore City Court, including the right of appeal to the Court of Appeals, by any person or persons interested, including the city itself, from the decision of said Commission in determining the amount of assessment to be paid by any such property; the assessment, as finally determined, shall be payable at such times and in such proportions, and shall bear such rate of interest as the Mayor and City Council of Baltimore shall by ordinance provide, and shall be liens from the date of their final determination on the parcels of said property upon which said assessment shall be respectively assessed in the same way that other city taxes in the City of Baltimore are now liens, and shall be collected and enforced as other city taxes in the City of Baltimore are now collected and enforced, or in such other manner as the Mayor and City Council of Baltimore shall prescribe. All money, when and as derived from said assessments, and all interest thereon shall be at once placed to the credit of the fund styled by this Act as the New Paving Fund, and shall be available from time to time to defray the cost of the works authorized by this Act, to the same extent as the original proceeds derived from the sale of stock authorized by

this Act are available. The said Commission shall be clothed with each and every and all powers which may be necessary or proper for these purposes or either of them, among which powers shall be the following, that is to say, 1. To make all such preliminary investigations and to do all such preliminary work as should, in its judgment, precede the adoption by it of a plan or plans of street improvement under this Act. 2. To adopt such plan or plans of street improvement under this Act as it may deem best calculated to promote the object of this Act. 3. To do all such grading or re-grading, and to lay, construct or create all such pavements or other street surface improvements as it may deem expedient for carrying said plan or plans of street improvement into full effect; and to select in its exclusive discretion, such kind of paving or other street surface improvement material as it may deem best; provided, however, that where the plans of the Sewerage Commission of Baltimore City provides for sewerage arrangements in any street, the said street shall not be newly paved with improved pavement until all such sewerage arrangements have been finally completed in the bed thereof. 4. To incorporate with said plan or plans of street improvement, or otherwise utilize for the purpose of this Act, so far as it may deem expedient, any or all existing public pavements or street surface improvements in the City of Baltimore, either in their present condition or with such repairs, modifications or changes as the said Commission may see fit to make; and to condemn, take up and remove, in its discretion, any or all such existing public pavements or street surface improvements, and to substitute therefor such other pavements or street surface improvements as it may deem proper. 5. To appoint or employ professional or technical advisers and experts, and such agents, assistants, clerks, employes and laborers, skilled or unskilled of all kinds, as it may deem requisite for the due and proper execution of the duties devolved upon it by this Act, or any of them, and to fix their respective compensations and to remove or discharge them at its pleasure (except such highly trained, experienced or skilled individuals as it may agree to appoint or employ upon special terms for definite and fixed periods of time), and to exact from them such indemnity bonds for the proper performance of their respective duties as it may deem proper; provided, however, that the chief engineer of such Commission under this Act shall be the City Engineer. 6. To frame, publish and enforce such reasonable rules and regulations for its own government, and for the supervision, protection, management and conduct of

its work as it may deem expedient. 7. To make and enter into in the name and on behalf of the Mayor and City Council of Baltimore any and all contracts, agreements or stipulations germane to the scope of its duties and powers under this Act. 8. To purchase, hire or otherwise lawfully obtain the use of all such machinery, tools, implements, appliances, supplies, materials and working agencies as it may need for its purposes; provided, however, that this enumeration of special powers shall not be construed as restricting in any degree the scope of the general powers hereinbefore conferred upon said commission.

1906, ch. 401, sec. 3. 1908, ch. 202.

**841w.** That the Mayor and City Council of Baltimore, acting by and through the agency of said Commission, may acquire by gift, purchase or other like method of acquisition, or by arbitration, or by condemnation, any private property, rights or interest, individual, railway or other corporate franchises or easements that may exist in any part or parts of any of the beds of any of the public lanes, alleys, avenues, street, or highways hereinbefore mentioned; and that said Commission may require for the purpose of giving full effect to the objects of this Act, and when and so often as resort shall be had to condemnation proceedings, the procedure shall be such as may now or at any time hereafter be provided for by any lawful ordinance or ordinances of the Mayor and City Council of Baltimore, adopted pursuant to the powers conferred upon it by section 6, Article 4 (entitled "City of Baltimore") of the Code of Public Local Laws of Maryland, title "General Powers," sub-title "Condemnation of Property," for the condemnation of any land or property or interest therein situated wholly or partly within the City of Baltimore, or such as may be provided for the very purpose by any lawful ordinance or ordinances of the Mayor and City Council of Baltimore, which said ordinance or ordinances the Mayor and City Council of Baltimore is hereby fully authorized to adopt; provided, provision is made therein for reasonable notice to the owner or owners, and for appeals to the Baltimore City Court, including the right of appeal to the Court of Appeals by any person interested, including the Mayor and City Council of Baltimore, from the decision of any Commissioners or other persons appointed to value any such private property, rights or interests, individual, railway or other corporate franchises or easements.

1906, ch. 401, sec. 4.

841x. All individuals and corporations lawfully having buildings, structures, works, conduits, drains, mains, pipes, tracks or other physical obstructions in, over or under the public lanes, alleys, avenues, streets or highways of the City of Baltimore, which shall block or impede the progress of the work of said Commission when under way, shall upon reasonable notice from said Commission, promptly so shift, adjust, accommodate or remove the same, at their own cost and expense, as to fully meet the exigencies occasioning such notice; and if any individual or corporation shall refuse, neglect or fail, after such reasonable notice, to discharge any duty cast upon him or it by this section, he or it shall, in addition, but not in substitution for any other remedy or remedies that said Commission or the Mayor and City Council of Baltimore may have in the premises, be subject to a fine of one hundred (\$100) dollars for each and every such offense, and also to an additional fine of fifty (\$50) dollars a day for every day that said refusal, neglect or failure shall continue, said fines to be collected as other fines in the City of Baltimore are collected, and should the exigencies of said Commission and its work in any cause involve a taking, in the constitutional sense, of the franchise or right, in the exercise of which such obstruction had its origin, the Mayor and City Council of Baltimore shall be empowered to secure the condemnation of such franchise or right in the manner provided for in section 3 of this Act.

1906, ch. 401, sec. 5.

841y. All work done, or supplies or materials purchased, in carrying out the purposes of this Act, when involving an expenditure of five hundred (\$500) dollars or more, shall be by contract awarded to the lowest responsible bidder, in accordance with the provisions of sections 14 and 15 of Article 4 (entitled "City of Baltimore") of the Public Local Laws of Maryland; *provided*, however, that said Commission shall be empowered, if it see fit, to insert in the specifications for any such work reasonable and lawful conditions as to hours of labor, wages and the residence or character of workmen to be employed by the contractors, and especially so far as it may be practicable in the judgment of said Commission, such reasonable and lawful conditions as will tend to confine employment on such work, in whole or in part, to permanent and *bona fide* residents of the State of Maryland only; and *provided*, however, also, that said Commission with the consent of all its members,

may itself do any part or parts of any such work, under such conditions in every respect as it may prescribe, by day labor, whenever the Chief Engineer in writing shall recommend that course; *provided*, however, that in that event said Commission shall among its other powers in the premises, be empowered to devise, publish and enforce such rules and regulations as will make merit and personal fitness, ascertained by some system of open competition or registration, or both, the sole tests of eligibility for all positions or employments under its control, which it may see fit to embrace within the scope of said rules and regulations, which, however, may be limited to permanent and *bona fide* residents of this State in any particular. Any and all bids or parts of bids for any such work or supplies or materials may be rejected.

1906, ch. 401, sec. 6. 1908, ch. 202.

**841z.** That in order to provide money for the work to be done by said Commission under this Act, as and when portions of such work are from time to time being done, the Mayor and City Council of Baltimore is hereby authorized to issue the stock of said corporation to an amount not exceeding \$5,000,000, said stock to be issued from time to time and in such amounts as the Mayor and City Council of Baltimore shall by ordinance prescribe; *provided*, however, that not more than \$1,000,000 of said stock shall be issued in any one year, and to be payable at such times and to bear such rate or rates of interest as the Mayor and City Council of Baltimore shall by ordinance provide; said amounts of stock shall be sold and issued by the Commissioners of Finance of the City of Baltimore at the best prices obtainable in their judgment therefor, and any premiums derived from the sale thereof shall remain in their hands as parts of the sinking fund hereinafter mentioned; the residue of the money received from the sale of said amounts of stock shall be turned over by them to the Comptroller, to be by him deposited with the City Register and to be placed to the credit of a fund to be known as the "New Paving Fund," which shall be exclusively applicable to the cost of the work authorized by this Act and shall be chargeable with no other items of cost or expense whatsoever. Appropriations for the cost of said work, based upon the estimates of said Commission, shall be annually included by the Board of Estimates, in the usual way, in the ordinance of estimates; and upon the written requisitions, supported by proper vouchers of the chairman of said Commission, or of the chairman pro tempore of

said Commission, countersigned by the secretary of said Commission, or by the secretary pro tempore of said Commission, either of which temporary officers said Commission is hereby authorized to appoint, by vote or resolution, in the event of the absence, sickness or other disability for the time being of its chairman or secretary, respectively, the Comptroller shall draw his warrants upon the City Register, payable out of such appropriations from said special fund for the amounts of all items of cost or expense properly chargeable upon said special fund; but no part of said stock shall be issued, nor any member of said Commission appointed, until the ordinance of the Mayor and City Council of Baltimore providing for the issuance thereof shall be submitted to the legal voters of the City of Baltimore at such time and place as may be fixed by said ordinance, and be approved by a majority of the votes cast at such time and place as required by section 7 of Article 11 of the Constitution of Maryland; if issued pursuant to such approval, the Mayor and City Council of Baltimore shall levy in each and every year, upon all property liable to taxation in the City of Baltimore, a sum sufficient to pay the interest accruing on said amounts of stock and to create a sinking fund sufficient, with the aid of any premiums on the sale thereof, to redeem said amounts of stock at their respective dates of maturity.

**841aa.** Formerly 841q. Repealed by Act of 1908, Chapter 202.

1906, ch. 401, sec. 8.

**841bb.** The Mayor and City Council of Baltimore is likewise authorized to impose upon all street railway companies occupying with their tracks parts of the beds of streets, avenues or other highways in the City of Baltimore upon which work shall be done under this Act of the obligation to pay for said work so far as the same shall be done between the rails of their said tracks and for a space of two feet on either side thereof, and the Mayor and City Council of Baltimore is further authorized to enforce said obligation by all such appropriate agencies, means, processes, proceedings and remedies as it may ordain for the purpose; but nothing in this Act shall be taken as in anywise relieving any such company or any other corporation or person from any obligations in its or his relations to the public highways of the City of Baltimore now cast upon it or him by law.

Act of 1906, Chapter 401, does not authorize the putting of the cost of repaving in the railway area on the Railway Company.

United Railways v. Baltimore, 121 Md. 552.

Power of the Legislature by proper Act to do so not passed on.

Ibid, 121 Md. 559.

1906, ch. 401, sec. 9.

**841cc.** While the work authorized by this Act is being done by said Commission the respective duties and powers of the City Engineer and Commissioner of Street Cleaning and other city officials in their relations to the pavements and other street surface improvements of the City of Baltimore shall, subject to the duties and powers hereby conferred upon said Commission, continue as at present, and said Commission shall be authorized as its work progresses to turn over from time to time, in its discretion, such completed portions of said work as it may see fit to the charge, superintendence and control of the proper city officials. When its work under this Act has been completed the life of said Commission as originally appointed and as subsequently recruited by appointments to occasional vacancies, if any, shall come to an end, and the pavements and other street surface improvements constructed or made by it, so far as they have not already been surrendered to the charge, superintendence and control of said officials, shall be then so surrendered, and at the same time all the records, writings and papers of said Commission shall be delivered up to the City Librarian; to be preserved in his office, and all property and effects in its possession belonging to the city to the Comptroller, to be disposed of by him as may be provided by ordinance.

1906, ch. 401, sec. 10.

**841dd.** The Act of the General Assembly of Maryland entitled "An Act to authorize the Mayor and City Council of Baltimore to issue its certificates of stock to an amount not exceeding Five Million Dollars (\$5,000,000) for the purpose of providing the money to pay at the time of doing the work, the portion of the cost and expenses of grading, paving and curbing the streets, lanes and alleys of the City of Baltimore, assessable upon the property benefited thereby, and for the reimbursement of the City of Baltimore in respect thereto out of the money derived from said assessments" and approved April 7, 1900, is hereby repealed.

This loan valid. Certain discretion as to the amount of interest may be delegated.

Bond v. Baltimore, 118 Md. 160.

## STREET DIRT, SWEEPINGS AND GARBAGE.

1902, ch. 327.

**841ee.** The Mayor and City Council of Baltimore is hereby authorized to enter into an agreement with the United Railways and Electric Company of Baltimore, or any person, company or corporation, for the carriage and disposal from proper places that may be agreed upon for transportation on the cars of said Company for final disposition at proper places situated on or near its system of tracks in this State of such street sweepings, dirt, ashes and garbage as may be collected by the Mayor and City Council of Baltimore, or its duly constituted employes and agents and delivered to said United Railways and Electric Company of Baltimore for final transportation at such places as may be agreed upon, on such terms and conditions as may be agreed upon between the Mayor and City Council of Baltimore, and the United Railways and Electric Company of Baltimore or any person, company or corporation; and should the Mayor and City Council of Baltimore by ordinance provide for the collection of street dirt, sweepings, garbage and ashes by other persons than the duly constituted officers or employes of said City of Baltimore, then said other person or persons shall have the same right to enter into an agreement for the final transportation of said street sweepings, dirt, garbage and ashes as mentioned aforesaid; provided, however, that nothing in this Act shall be construed to confer any right upon the Mayor and City Council of Baltimore to contract with said United Railways and Electric Company of Baltimore, or any person, company or corporation, for the collection of street sweepings, ashes and garbage from the streets, lanes, alleys and other ways of the said City of Baltimore, but shall simply apply to the final transportation and disposal of said street sweepings, dirt, garbage and ashes from certain specified places to the final disposition as heretofore mentioned; provided, further, that the cars, boxes, bins, houses or receptacles in which said street sweepings, dirt, garbage and ashes are deposited and retained awaiting final disposition, and the cars, boxes, bins, or other receptacles in which said street sweepings, dirt, garbage and ashes may, should or are to be transported from said place of deposit to the place of final disposition shall be closed and covered in such manner as may be provided for by the Mayor and City Council of Baltimore, and shall only be transported, conveyed and carried from said places of deposit to the final disposition through the streets of said city only between the hours of one and five o'clock A. M.



## SPECIAL PAVING TAX.

1912, ch. 688, sec. 1.

**841ff.** That there is hereby levied and imposed upon property in the City of Baltimore specially benefited by improved paving (said property being hereinbelow specified), a special paving tax of the amount hereinbelow specified, said tax to continue as to each property for ten years from the time it attaches thereto, and the entire proceeds thereof to be used for improved paving in Baltimore City, as hereinbelow provided.

1912, ch. 688, sec. 2.

**841gg.** CLASSIFICATION. That for the purposes of this Act all landed property in Baltimore City adjoining or abutting upon any public highway which has been or shall hereafter be paved with improved paving without special assessment of any part of the cost upon the abutting or adjoining property owners by the City of Baltimore or the State Roads Commission, or other public commission or agency, or by said city, and such commission or agency, or by either or both, and any railroad or railway company occupying with tracks a portion of such highway, is hereby declared to be specially benefited by such improved paving to an extent greater than the entire amount of the special tax hereby levied thereon. Said property so benefited is hereby divided into three classes, to be designated as Classes A, B and C.

Class A shall include all such landed property in the City of Baltimore adjoining or abutting upon a public highway paved with improved paving and having a width of not less than thirty feet so paved.

Class B shall include all such landed property in the City of Baltimore adjoining or abutting upon any public highway paved with improved paving and having a width of less than thirty feet and not less than fifteen feet so paved.

Class C shall include all such landed property in the City of Baltimore adjoining or abutting upon any public highway paved with improved paving and having a width of less than fifteen feet so paved.

The Appeal Tax Court of Baltimore is hereby authorized and directed to proceed forthwith to classify and list for taxes as provided by this Act for the year 1913 all landed property in the City of Baltimore which on the first day of November, 1912, was in the situation to come under the requirements of either of said classes; and thereafter on the first day of November of every year, and as soon thereafter as may conveniently

be done, they shall add to said lists all landed property which during the preceding year shall have come under either of said classes. The said Court may classify property under this Act as soon as it meets the requirements thereof, but the special paving tax thereon shall not attach until the year following such classification.

Before classifying and listing any property under the special tax hereby provided, the said Appeal Tax Court shall give notice to the owner of the said property, designating a certain time when said owner may appear before said Court and be heard in reference to the liability of said property for said tax, and the class to which it properly belongs. All the provisions of existing laws relating to notice to be given by the Appeal Tax Court before changing the classification of property under the Act of 1908, Chapter 286, and to appeals from the actions of the Appeal Tax Court thereunder, shall be applicable to the notice to be given by the Appeal Tax Court and to the right of appeal from their actions under this Act. After having given such owner reasonable notice and opportunity to be heard, as herein provided, the Appeal Tax Court shall proceed to make the classification as herein provided, and shall certify their actions, in making classifications of property for the special tax provided by this Act, to the City Collector in the same manner as in cases of classifications of real and leasehold property in the Annex for the different rates of taxation as provided under the Act relating thereto; and the said City Collector shall add said special tax to the tax bill of the property as a separate item, to be called "Special Paving Tax," and shall collect the same in the same manner as ordinary taxes on real estate are collected. All the provisions of existing laws and ordinances, and any amendment or amendments thereto, relating to the lien of, discounts, interest and penalty or other charges upon the ordinary taxes on real estate, and the powers and duties of the City Collector in regard to the collecting, keeping accounts of, accounting for, and depositing such taxes, shall apply to the special tax herein provided for, except where inconsistent with some provision of this Act. On the first day of every month, or next legal day if the first be Sunday or a holiday, the City Collector shall account for and pay over to the Comptroller, to be by him deposited with the City Register and to be placed to the credit of the new paving fund provided for in the Acts of 1906, Chapter 401, and 1908, Chapter 202, and to be exclusively applicable to the cost of the work authorized by said acts or by any amendment or amendments thereof, all the proceeds

of the special tax herein levied which he shall have collected during the preceding month.

1912, ch. 688, sec. 3.

**841hh.** DEFINITIONS. That "improved paving" as used in this Act, shall mean any substantial smooth paving above the grade of ordinary macadam, and shall include granite or belgian blocks, vitrified brick or blocks, wood blocks, asphalt or concrete blocks, sheet asphalt, bitulithic, bituminous macadam and bituminous concrete. "Paved" shall include repaved as to any public highway, not theretofore paved with improved paving; and "Landed Property" shall mean real estate whether in fee simple or leasehold and whether improved or unimproved.

1912, ch. 688, sec. 4.

**841ii.** That the amount of the special paving tax hereby levied shall be as follows: On all property embraced in Class A, fifteen cents (15c.) per year per front foot or lineal foot adjoining or abutting upon the public highway. On all property embraced in Class B, ten cents (10c.) per year per front foot or lineal foot adjoining or abutting upon the public highway. On all property in Class C, five cents (5c.) per year per front foot or lineal foot adjoining or abutting upon the public highway. Provided, however, that in the case of any corner property or property used only as a private dwelling adjoining or abutting upon two public highways, one in front and the other on the side, two-thirds of the number of lineal feet of said property abutting on the highway on the side shall be exempt from any tax under this Act. As to all corner property other than private dwellings one-half of the number of lineal feet of said property abutting on the highway on the side shall be exempt from any tax under this Act.

This Act valid. Special assessments may be levied for improvements previously made.

*Leser v. Wagner*, 119 Md. 671.

Legislature may impose the cost of improving a street on the abutting property by the front foot rule. Legislative determination that property specially benefited binding if any reasonable ground to support it.

*Bassett v. Ocean City*, 118 Md. 115.

## SURVEYOR.

P. G. L., (1860) Art. 37, sec. 48. P. L. L., (1860) Art. 4, sec. 865.

P. L. L., (1888) Art. 4, sec. 826.

**842.** 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.

## TAXES.

### *Limitations.*

1861, ch. 94. P. L. L., (1888) Art. 4, sec. 840.

**843.** 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. Any person enforcing or attempting to enforce the collection of any tax after the lapse of four years, 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.

M. & C. C. of Balto. v. Greenmount Cemetery, 7 Md. 517. Gunther v. Mayor, 55 Md. 457. Gould v. Mayor, etc., 58 Md. 46; 59 Md. 378. Hebb v. Moore, 66 Md. 167. Perkins v. Dyer, 71 Md. 422. Condon v. Maynard, 71 Md. 604. Baden v. Perkins, 77 Md. 465. Duval v. Perkins, 77 Md. 591. Baldwin v. State, use of Hull, 89 Md. 587. B., C. & A. R. R. Co. v. Wicomico Co., 93 Md. 113.

## TENANT FOR YEARS OR LESS OR AT WILL.

P. L. L., (1860) Art. 4, sec. 882. P. L. L., (1888) Art. 4, sec. 857.

**844.** 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.

Biggs v. Stueler, 93 Md. 100.

See notes of decisions in relation to sections 844 to 864, inclusive, of this Article, on pages 1099 to 1103, inclusive, City Code, (1879).

*Landlord and Tenant.* Ninety days' notice was given by a landlord to a tenant at will. This notice held sufficient. McElroy v. Wright, Daily Record, March 7, 1889. The renting of a tenement for an indefinite time, and an occupation thereof for a year, constitute a tenancy for a year.—Lutz v. Lutz, Daily Record, July 9, 1889. Where the tenant enters under a void lease, he will be held liable under a verbal agreement of similar import as to terms to that expressed in writing. Ehrman v. Lyman, Daily Record, July 18, 1889. An assignee of a leasehold estate is liable for the rent which accrued after he executed an assignment of the term and before the same was recorded. See, able opinion

of Judge Duffy in this case, affirmed in 75 Md., page 174. *Nickel v. Brown*, Daily Record, October 7, 1891.

*When Landlord Cannot Petition in an Attachment Suit for Arrearages of Rent.*—When right of distress does not exist, the landlord has no lien entitling him to come into an attachment suit by petition as sanctioned by *Thompson v. Balto. Steam Packet Co.*, 33 Md. 318, and claim a priority for rent in arrear. *Putman's Sons v. Van Buren*, Daily Record, November 27, 1890.

*Landlord's Remedy for Rent when Tenant's goods are seized by writ of attachment and goods sold under order of court.*—Landlord should go into court and claim payment of his rent as a prior lien on proceeds, by reason of his *quasi* lien on the goods. *Lutz v. Lutz*, Daily Record, July 9, 1889.

P. L. L., (1860) Art. 4, sec. 883. P. L. L., (1888) Art. 4, sec. 858.

**845.** If any land be held in said city under the lease for a month, or any less period than a year, and the tenant continues to occupy under such lease after its expiration, he shall be deemed a tenant for such period as the premises were originally leased to him, and so from such period to such period; and if his landlord give him thirty days' notice before the termination of any period of his tenancy, it shall terminate such tenancy.

*Kinsey v. Minnick*, 43 Md. 112.

P. L. L., (1860) Art. 4, sec. 884. P. L. L., (1888) Art. 4, sec. 859.

**846.** If land or tenements be held in said city by tenancy at will, at sufferance or *per 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.

P. L. L., (1860) Art. 4, sec. 885. P. L. L., (1888) Art. 4, sec. 860.

**847.** Any of the tenancies mentioned in the three preceding sections may be terminated by the tenant giving notice to the landlord thirty days previous to the end of the year, or other period for which he holds the same.

*Kinsey v. Haslup & Minnick*, 43 Md. 112. *Biggs v. Stueler*, 93 Md. 100.

P. L. L., (1860) Art. 4, sec. 886. P. L. L., (1888) Art. 4, sec. 861.

**848.** 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 upon a conspicuous part of the premises.

*Kinsey v. Minnick*, 43 Md. 117. *Biggs v. Stueler*, 93 Md. 103.

P. L. L., (1860) Art. 4, sec. 887. P. L. L., (1888) Art. 4, sec. 862.

**849.** Such notice shall be sufficient in form if it contains 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.

P. L. L., (1860) Art. 4, sec. 888. P. L. L., (1888) Art. 4, sec. 863.

**850.** 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 .

P. L. L., (1860) Art. 4, sec. 889. P. L. L., (1888) Art. 4, sec. 864.

**851.** 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, ch. 96. P. L. L., (1888) Art. 4, sec. 865.

**852.** 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.

Miller v. Duvall, 26 Md. 51.

P. L. L., (1860) Art. 4, sec. 891. P. L. L., (1888) Art. 4, sec. 866.

**853.** 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., (1860) Art. 4, sec. 892. P. L. L., (1888) Art. 4, sec. 867.

**854.** 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.

P. L. L., (1860) Art. 4, sec. 893. P. L. L., (1888) Art. 4, sec. 868.

**855.** 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.

P. L. L., (1860) Art. 4, sec. 894. P. L. L., (1888) Art. 4, sec. 869.

**856.** The copies of said interrogatories may be served in the same manner that notices to quit are directed to be served.

P. L. L., (1860) Art. 4, sec. 895. P. L. L., (1888) Art. 4, sec. 870.

**857.** If in any proceeding by a landlord to dispossess a tenant the judgment be in his favor, the Justice shall assess against the tenant holding over the premises, damages not exceeding double the rate of the rent of said tenancy, and also for the expenses of said landlord or reversioner in and about said proceeding, over and above the legal costs thereof, and shall render a judgment therefor in favor of the lessor or reversioner, to be enforced by execution.

Under this section (857), it is the duty of the Court to assess against a tenant holding over, damages not exceeding double the rate of rent of the tenancy, and also such further sum for the expenses of the landlord in and about said proceedings over and above the legal costs therein. *McElroy v. Wright*, Daily Record, March 7, 1889.

P. L. L., (1860) Art. 4, sec. 896. P. L. L., (1888) Art. 4, sec. 871.

**858.** If the Justice shall find against the landlord or reversioner he shall assess such damages as he shall deem just to be paid by him to the tenant, for which, and costs, judgment shall be rendered and enforced as aforesaid.

*Miller v. Duvall*, 26 Md. 51.

P. L. L., (1860) Art. 4, sec. 899. P. L. L., (1888) Art. 4, sec. 872.

**859.** In all cases the tenancy mentioned in this sub-division of this Article, if the tenant, after notice, fail to quit at the end of the term, or at a 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, adminis-

trators 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.

P. L. L., (1860) Art. 4, sec. 900. P. L. L., (1888) Art. 4, sec. 873.

**860.** An appeal may be prosecuted from any judgment of a Justice of the Peace rendered under the provisions of this sub-division of this Article 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 executions 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.

Miller v. Duvall, 26 Md. 47. Gelston v. Sigmund, 27 Md. 334. Mears v. Remare, 33 Md. 246. Same v. Same, 34 Md. 333.

P. L. L., (1860) Art. 4, sec. 901. P. L. L., (1888) Art. 4, sec. 874.

**861.** Such cases shall not be removable to the Baltimore City Court, at any stage thereof, save by and upon appeal as aforesaid.

P. L. L., (1860) Art. 4, sec. 902. P. L. L., (1888) Art. 4, sec. 875.

**862.** No proceeding to dispossess a tenant holding over, had before any Justice of the Peace and removed by appeal to the Baltimore City Court, shall by such Court be reversed or set aside for matter of form; and any case thus removed by appeal, if the proceeding thereunder shall be set aside or appear to be substantially defective, shall be proceeded with in said Court in the same manner and to the same effect, upon the claim and complaint and merits, and upon evidence to be adduced therein as it was or might have been competent to said Justice of the Peace to have proceeded therewith.

P. L. L., (1860) Art. 4, sec. 903. P. L. L., (1888) Art. 4, sec. 876.

**863.** 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.

Mears v. Remare, 33 Md. 251.

P. L. L., (1860) Art. 4, sec. 904. P. L. L., (1888) Art. 4, sec. 877.

**864.** The provisions of the preceding sections of this sub-division 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 of this sub-division of this Article.

#### VAGRANTS, PAUPERS, BEGGARS, VAGABONDS AND DISORDERLY PERSONS.

P. L. L., (1860) Art. 4, sec. 907. P. L. L., (1888) Art. 4, sec. 878.

**865.** The Judge of the Criminal Court of Baltimore, or any Justice of the Peace of the City of Baltimore, upon information that any person in said city is a pauper, an habitual beggar, a vagrant, a vagabond or disorderly person, shall issue a warrant or order, to be directed to the Sheriff or any constable or police officer of said city, commanding him to bring the person against whom the information is given, before said Court or said Justice on a day to be named therein, not more than one week from the date of the warrant, to answer to the said charge.

P. L. L., (1860) Art. 4, sec. 908. P. L. L., (1888) Art. 4, sec. 879.

**866.** Every person who has no visible means of maintenance from property or personal labor, or is not permanently supported by his or her friends or relatives, and lives idle, without employment, shall be deemed a pauper; and every person who habitually wanders about and begs in the streets, or from house to house, or sits, stands or takes a position in any place and begs from passers-by, either by words or gestures, shall be deemed an habitual beggar; and every person who wanders about and lodges in outhouses, 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.

See, opinion of Harlan, C. J., *in re* State v. Carrie Parkhurst, Part II of the Criminal Court of Baltimore, declaring section 4 of Article 38, Baltimore City Code (1893), in conflict with sections 866-872 inclusive of the City Charter, and therefore invalid. Docket of 1901, case 1028.

*Criminal Court,—Jurisdiction of.*—In cases of vagrancy, the Criminal Court of Baltimore City has appellate jurisdiction only; on a conviction before a Justice of the Peace, the accused may appeal to the Criminal Court. *Adams v. Superintendent House of Refuge*, Daily Record, April 3, 1903.

1888, ch. 284. P. L. L., (1888) Art. 4, sec. 880.

**867.** Police officers, acting on the request of any person, or upon their own information or belief, shall, without a warrant, arrest and carry before a station house Justice for examination any such pauper, habitual beggar, vagrant, vagabond or disorderly person, and make complaint against him; *provided*, that in all cases where such arrest is made on request of any person and without warrant, the officer making the arrest shall require the person requesting it to forthwith appear before said Justice and prefer a charge, under oath, against the person so arrested.

P. L. L., (1860) Art. 4, sec. 909. P. L. L., (1888) Art. 4, sec. 881.  
1890, ch. 196. 1900, ch. 677.

**868.** The said Court or said Justice, upon proof that any person is a pauper, an habitual beggar, a vagrant, or a vagabond as aforesaid, shall in the discretion of the said Court or Justice commit said pauper, habitual beggar, vagrant or vagabond to the Maryland House of Correction, or to such other suitable place as may hereafter be provided for said purpose by the Mayor and City Council of Baltimore; *provided*, that any person found to be a pauper or an habitual beggar who may not be able-bodied, but aged, or seriously crippled or infirm, may in the discretion of said Court or Justice be committed to the almshouse of said city; and that any minor committed under this section may be sent to any reformatory institution to which minors may be committed under Article 27 of the Code of Public General Laws.

P. L. L., (1860) Art. 4, sec. 910. P. L. L., (1888) Art. 4, sec. 882.

**869.** Whenever any house of refuge, house of correction, workhouse or other house, building or place shall be provided by the Mayor and City Council of Baltimore, to which persons convicted under this sub-division of this Article 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 con-

sider it to be a more suitable place for the purpose than the Almshouse.

P. L. L., (1860) Art. 4, sec. 911. P. L. L., (1888) Art. 4, sec. 883.

**870.** The Supervisors of City Charities, or the officers of places respectively to which persons convicted under the two preceding sections may be sent, shall keep them during the time for which they are to be kept, so that they cannot escape from said places.

P. L. L., (1860) Art. 4, sec. 912. P. L. L., (1888) Art. 4, sec. 884.

**871.** The said Supervisors of City Charities or other officers respectively shall put such of said persons so convicted as are able to work, to the work which they are best able to do.

P. L. L., (1860) Art. 4, sec. 913. P. L. L., (1888) Art. 4, sec. 885.  
1890, ch. 196.

**872.** The time for which any person shall be sent to the almshouse, the Maryland House of Correction or other place, as provided by section 868 of this Article, shall not be less than one week nor more than two months for the first conviction, and not less than one month nor more than six months for the second conviction, and not less than six months nor more than twelve months for the third or any subsequent conviction.

P. L. L., (1860) Art. 4, sec. 914. P. L. L., (1888) Art. 4, sec. 886.

**873.** The Supervisors of City Charities or the managers of the House of Refuge or officers of the other places to which persons may be sent as aforesaid, shall respectively have the right to make all proper rules and regulations for the purpose of carrying out the aforesaid provisions.

P. L. L., (1860) Art. 4, sec. 915. P. L. L., (1888) Art. 4, sec. 887.

**874.** 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.

P. L. L., (1860) Art. 4, sec. 916. P. L. L., (1888) Art. 4, sec. 888.

**875.** The said Judge or Justice shall, if a suitable master or mistress can be found, and he judges it best for the minor,

bind such minor an apprentice to some useful art, trade or occupation, in the same manner and on the same conditions as apprentices may now be bound by the laws of this State.

P. L. L., (1860) Art. 4, sec. 917. P. L. L., (1888) Art. 4, sec. 889.

**876.** 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.

P. L. L., (1860) Art. 4, sec. 918. P. L. L., (1888) Art. 4, sec. 890.

**877.** The Orphans' Court of Baltimore City shall have concurrent jurisdiction over all cases of minors under the preceding sections of this sub-division of this Article, 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.

P. L. L., (1860) Art. 4, sec. 919. P. L. L., (1888) Art. 4, sec. 891.

**878.** 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.

P. L. L., (1860) Art. 4, sec. 920. P. L. L., (1888) Art. 4, sec. 892.

**879.** If in any case which may be brought before a Justice of the Peace, or before the Orphans' Court, the party charged shall demand a jury trial, the said Justice or said Court shall certify said case to the Criminal Court of Baltimore, to be proceeded with and tried by said Court in the same manner as if the case had been originally brought before said Court.

P. L. L., (1860) Art. 4, sec. 921. P. L. L., (1888) Art. 4, sec. 893.

**880.** The Justice of the Peace and the Clerk of the Criminal Court and Register of Wills of the Orphans' Court aforesaid, respectively, shall receive the sum of twenty-five cents for issuing every warrant, and fifty cents for making out every commitment or indenture of apprenticeship of such vagrants or beggars; and the constable, sheriff or police officer, for serving said warrant and bringing the person charged before either of said Courts, or before said Justice, shall receive the sum of fifty cents, and for carrying any person committed to the place of commitment, the sum of fifty cents, which several sums shall be paid as other costs in criminal cases are now paid; but either of said Courts or said Justice may at discretion, adjudge that the

said costs shall be paid by the informer, in cases where the person charged is acquitted.

#### VAGRANT, DEPENDENT AND VICIOUS CHILDREN.

1878, ch. 473. P. L. L., (1888) Art. 4, sec. 894.

**881.** No minor, if a girl, under the age of sixteen years, and if a boy, under the age of fourteen years, shall be admitted or permitted to remain in any saloon, place of entertainment or amusement known as dance-houses, concert saloon, theatre or varieties, where immoral, indecent, obscene or vulgar language, display or performance is permitted, allowed or carried on, or where any spirituous liquors, wines, intoxicating or malt liquors are sold, exchanged or given away, unless accompanied by parents or guardian. Any proprietor, keeper or manager of any such place who shall admit such minor to or permit him or her to remain in such place, unless accompanied by parent or guardian, shall be guilty of a misdemeanor, and shall, upon conviction by any court of competent jurisdiction, be fined ten dollars and costs for each and every offence.

1878, ch. 473. P. L. L., (1888) Art. 4, sec. 895.

**882.** Every person having the custody of any girl under the age of sixteen years and of any boy under the age of fourteen years shall restrain such child from habitually begging, whether actually begging or under the pretense of peddling. Any person offending under this section shall be considered and deemed as incapable of taking care of and providing for such child, and such child, by reason thereof, be deemed as coming within the conditions of the next succeeding section.

1878, ch. 473. P. L. L., (1888) Art. 4, sec. 896.

**883.** Any girl apparently under the age of sixteen years, and any boy apparently under the age of fourteen years, that comes within any of the following descriptions named: that is known to be habitually begging or receiving alms, whether actually begging or under the pretence of peddling or offering for sale anything, or being in any street, road or public place for the purpose of so begging, gathering or receiving alms; that is found wandering and not having any home or settled place of abode or proper guardianship or visible means of subsistence; that is found destitute, either being an orphan or having a vicious parent who is undergoing penal servitude or imprisonment; that frequents the company of reputed thieves or prostitutes, or houses of assignation or prostitution, or dance-

houses, concert saloons, varieties, or places specified in section 881 hereof, without a parent or guardian, shall be arrested and brought before a Court or Justice of the Peace. When, upon examination before a Court or Justice of the Peace it shall appear that any such child has been engaged in any of the aforesaid acts, or comes within any of the aforesaid descriptions, such Court or Justice, when he shall deem expedient for the welfare of the child, shall commit such child to an orphan asylum, charitable or other institute, or make such other disposition thereof as now is or may hereafter be provided by law in case of vagrants, truant, disorderly, pauper or destitute children; provided, however, that none of the provisions of this sub-division of this Article shall be construed so as to prevent children from selling or offering for sale newspapers.

1878, ch. 473. P. L. L., (1888) Art. 4, sec. 897.

**884.** Any person representing himself or herself to be, or passing himself or herself off as the parent or guardian of a child or children referred to in any of the aforesaid sections of this sub-division of this Article, when it shall appear that such person is not either the parent or guardian of said child, shall be deemed guilty of a misdemeanor, and upon conviction by any court of competent jurisdiction shall be fined not more than twenty dollars and costs for each and every offence.

#### BOYS' HOME.

1874, ch. 68. P. L. L., (1888) Art. 4, sec. 898.

**885.** The special objects and purposes of the Boys' Home Society shall be to shelter and protect destitute and homeless boys, to furnish them with food, raiment and lodging, to stimulate them to honest efforts to earn a livelihood, to instruct them after working hours in moral and religious truths and in the rudiments of education, to aid and encourage them out of vagrancy and ignorance, to raise them up into a better life of virtue, industry and usefulness, and generally to stand in the relation of parent to such homeless boys.

#### ST. MARTHA'S EPISCOPAL HOUSE.

1898, ch. 151.

**885a.** The Mayor and City Council of Baltimore is authorized and empowered to appropriate annually the sum of five hundred dollars to pay for the conduct and management of Saint Martha's Episcopal House, in the City of Baltimore.

1874, ch. 68. P. L. L. (1888) Art. 4, sec. 899. 1900, ch. 742.

**886.** The Boys' Home, the Dolan Children's Aid Society, the Hebrew Orphan Asylum, the Home of the Friendless, St. Vincent's Orphan Asylum and the Henry Watson Children's Aid Society have the powers and authority conferred by the General Laws upon juvenile institutions and societies.

1902, ch. 611. 1904, ch. 514. 1906, ch. 263. 1912, ch. 618.

**886A.** The Supreme Bench of Baltimore City shall appoint five persons of either sex to serve during its pleasure, who shall be known as "Probation Officers for Delinquent and Dependent Children," each of said persons shall receive from the Mayor and City Council of Baltimore a salary of twelve hundred dollars per annum payable monthly. The said probation officers herein provided for are officers of the Court presided over by the magistrate for juvenile causes provided for by section 623A of Article 4 of the Code of Public Local Laws, and shall be at times subject to the orders and directions and shall be under the supervision of said magistrate. They are also deemed officers of the various courts presided over by the judges of the Supreme Bench of Baltimore City and when acting or performing functions for such courts are subject to their orders and directions. In the execution of their office they are vested with all the privileges and authority of conservators of the peace. The Supreme Bench may also appoint from time to time additional probational officers for delinquent and dependent children in such number as may be deemed necessary, to serve without pay during the pleasure of said Court. Such additional probational officers are subject to the same orders and directions, are under the same supervision and are vested with the same authority as are the regularly appointed paid probational officers herein provided for.

1902, ch. 611. 1904, ch. 514. 1912, ch. 618.

**886B.** In any proceeding before any of the courts of the Supreme Bench of Baltimore City or before the magistrate for juvenile causes, involving a hearing, trial, detention, custody or commitment, of any minor one or more of the probation officers provided for by section 1 of this Article and designated by the court or magistrate aforesaid before whom such proceedings are had, shall make such investigation and make return thereof as may be required by said court or magistrate aforesaid and shall execute such further orders and directions as said court or magistrate may from time to time require. At any

stage of the proceedings in the case of a minor who is charged with the commission of any crime or whose care, commitment or custody is involved before said courts or magistrate, said courts or magistrate may suspend sentence, final judgment or further proceedings for such period of time or for an indefinite period of time as may be deemed necessary, and place said minor on probation in the care of and under the supervision and direction of one or more of the probation officers herein provided for; and at the time of suspension of sentence or further proceedings, or subsequent thereto, the said court or magistrate may impose such terms and conditions as may be deemed proper and necessary. Any minor placed on probation is deemed a probationer.

1912, ch. 618.

**886C.** The courts aforesaid and the magistrate for juvenile causes are hereby authorized and empowered to place any minor who may be on probation as herein provided for in the custody of such person or persons for such period of time as may be deemed for the best interest and welfare of said minor if it shall appear that the present custodian or parent is not a fit person to have the custody of such minor, or that it would be conducive to the best interests of such minor to have a change of custodian. Any person or persons who may in any manner whatsoever interfere with any probation officer for delinquent and dependent children in the proper discharge of his or her duties, or who may interfere with any person or persons in whose custody any minor may be placed as aforesaid or who may interfere with or attempt in any manner to entice any minor from such custody, shall be guilty of a misdemeanor and on conviction thereof shall be fined not less than five nor more than fifty dollars for each offense.

1912, ch. 618.

**886D.** The probation officers herein provided for shall have the power to bring any minor or minors who may be on probation as aforesaid before the Court or magistrate for juvenile causes, by a process of warrant duly sworn to charging him or them with violation of the terms or conditions of their probation, or by subpoena directed to them, for further proceedings and when such action is taken the Court or magistrate aforesaid may continue proceedings and finally dispose of the same as fully as could have been done had there been no suspension of sentence or proceedings in the first place; provided, however, that in any



case where a full trial or hearing has not been had and the charge or crime has not been fully shown, sustained or determined before suspension of sentence or further proceedings, the Court or magistrate aforesaid shall hear the case de novo or in finis, before sentence is passed or a final disposition of the case is made.

1912, ch. 618.

**886E.** The Court or magistrate aforesaid shall have the authority to extend the term of probation at any time for such additional period as may be deemed proper and may attach thereto the same or additional terms and conditions as were originally attached or may at any time dismiss the probationer and the proceedings in which sentence or further proceedings were originally suspended.

1912, ch. 618.

**886F.** The magistrate for juvenile causes is hereby authorized to appoint a person as stenographer and typewriter to serve during his pleasure who shall receive from the Mayor and City Council of Baltimore, a salary of six hundred dollars per annum, payable monthly. Said person shall perform such duties as said magistrate may require.

**887-899.** Sections 887 to 899, inclusive, repealed by Act 1900, Chapter 742.

#### WAITRESSES IN PLACES OF PUBLIC AMUSEMENT.

1864, ch. 399. P. L. L., (1888) Art. 4, sec. 913.

**900.** 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 pretense of selling, serving, receiving orders or pay for spirituous or malt liquors, wines, lager beer, or any other refreshments or merchandise.

1864, ch. 399. P. L. L., (1888) Art. 4, sec. 914.

**901.** Any person violating the provisions of the preceding section shall be deemed guilty of a misdemeanor, and on conviction thereof in the Criminal Court of Baltimore, shall be sentenced to pay a fine of not less than one hundred nor more

than one thousand dollars, or to imprisonment in jail not less than one month nor more than six months, or to both fine and imprisonment, at the discretion of the Court, and to forfeiture of license, one-half the fine to be paid to the informer and the other half to the State.

## WATER.

### *Lake Roland, Reservoir and Dams.*

1870, ch. 25. P. L. L., (1888) Art. 4, sec. 931. 1910, ch. 674.

**902.** If any person shall wilfully pollute or tend to pollute the water in any lake, dam or reservoir, line of conduit, water-pipe, gate-house or other work constructed or used for supplying the City of Baltimore with water, by swimming, bathing or washing therein, or by washing or causing to be washed therein, or so near thereto as to tend to pollute the water therein, any clothes, the skin of any dead animal or any impure, fetid or noxious animal or vegetable matter, or shall throw or cause to be thrown therein, or so near thereto as to tend to pollute the water therein, any impure, fetid or noxious animal or vegetable matter, the person so offending shall forfeit and pay a sum not less than five nor more than fifty dollars for each offense.

Mayor v. Warren Mfg. Co., 59 Md. 96.

1870, ch. 25. P. L. L., (1888) Art. 4, sec. 932. 1910, ch. 674.

**903.** If any person shall erect or cause to be erected any privy, hog-pen, bleaching or dyeing establishment, or other thing over any lake, dam, reservoir, line of conduit, water-pipe, gate-house or other work constructed or used for supplying the City of Baltimore with water or so near thereto as to tend to pollute or discolor the water therein, the person so offending shall forfeit and pay a sum not exceeding fifty dollars, and the further sum of ten dollars for each and every day the same shall remain after notice to remove the same shall have been given.

1861, ch. 240. P. L. L., (1888) Art. 4, sec. 933.

**904.** 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 offense.

1861, ch. 240. P. L. L., (1888) Art. 4, sec. 934.

905. All fines and forfeitures imposed by the preceding section shall be recoverable by warrant before any Justice of the Peace in and for the City of Baltimore, or in and for Baltimore County, according to the respective jurisdiction under which any of the offenses herein set forth may be committed; one-half to the informer and the other half to the Mayor and City Council of Baltimore.

1861, ch. 240. P. L. L., (1888) Art. 4, sec. 935.

906. The two preceding sections shall not be construed to exempt any person 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.

#### PROVISOES LIMITING THE OPERATION AND EFFECT OF THIS ARTICLE.

1898, ch. 123, sec. 2.

Section 2. This Act (1898, ch. 123) shall not affect or impair any right vested or acquired and existing at the time of the passage of said Act; *provided*, that this section shall not be construed to make irrevocable or irrevocable any right which before the passage of this Act was repealable or revocable; nor shall said Act impair, discharge or release any contract, obligation, duty, liability or penalty whatever now existing. All suits and actions, both civil and criminal, pending or which may hereafter be instituted for causes of action now existing or offenses already committed against any law or ordinance repealed by this Act, shall be instituted, proceeded with and prosecuted to final determination and judgment as if this Act had not been passed. No tax levied or any proceeding taken for the collection of any such tax or the enforcement of the payment of the same, before the passage of this Act, or the taxes levied for the year eighteen hundred and ninety-eight, if levied after the passage of this Act, shall in any manner be affected by the passage of this Act, and the mode of procedure in any such matter shall be the same as if this Act had not been passed.

Robinson v. Baltimore City, 93 Md. 208. Baltimore City v. Balto. Co. W. & E. Co., 95 Md. 242.

1898, ch. 123, sec. 3.

Section 3. All laws now in force relating or applicable to the Mayor and City Council of Baltimore or the City of Baltimore, and not included in this Act, and not inconsistent with said Act, and all ordinances of the Mayor and City Council of Baltimore now in force and not inconsistent with this Act, shall be and they are hereby continued until changed or repealed, respectively, by the General Assembly of Maryland or the Mayor and City Council of Baltimore; provided, that all Acts or parts of Acts passed at the session of the General Assembly of Maryland in the year eighteen hundred and ninety-eight, relating to the Mayor and City Council of Baltimore, or the City of Baltimore, or in any manner amending or adding to Article 4 of the Code of Public Local Laws, as said Article existed before the passage of this Act, shall in no wise be affected by the passage of this Act, but all such laws shall have the same force and effect as if this Act had not been passed. The provisions of this Act shall not have the effect to enlarge or extend in any manner the rights or privileges of the Mayor and City Council or other authorities of the City of Baltimore outside of the limits and boundary of said city, beyond or in addition to those now limited to, and exercised by said city under the present laws.

*U. Rys., etc. Co. v. Hayes*, 92 Md. 490. *Baltimore City v. Stewart*, 92 Md. 553. *Robinson v. Balto. City*, 93 Md. 208. *Balto. City v. Balto. Co. W. & E. Co.*, 95 Md. 243. *Bostock v. Sams*, 95 Md. 400.

1898, ch. 123, sec. 4.

Section 4. All officers provided for or named in said Act, whether by election or appointment, shall continue to hold, exercise and discharge the duties of their respective offices, until they shall be superseded under the provisions of said Act, and until their successors shall be duly qualified, and nothing contained in said Act shall be construed to interfere with the continuity of the terms or tenure of any of said officers; nor shall a re-appointment or re-election of any of said officers be necessary in order to secure the said continuity of their said terms and tenures of office, unless otherwise provided in said Act.

*Robinson v. Balto. City*, 93 Md. 208.

The Act of 1898, ch. 123 was approved March 24, 1898.

## APPENDIX.

AN ACT TO ENLARGE THE BOUNDS OF  
BALTIMORE CITY.

1816, ch. 209.

Section 1. *Be it enacted by the General Assembly of Maryland*, That the precincts of Baltimore City, and all that part of Baltimore County which is included in the following metes and bounds, shall be, and are hereby annexed to, and made part of, the City of Baltimore; that is to say, 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 then with the lines of said lot to the Patapsco River, on the south by a line drawn from the Patapsco River, at the termination of the last mentioned line, to the most southern part of Whetstone Point, on the main branch of the Patapsco River, and running with and bounding on the said main branch, excluding the land ceded to the United States on Whetstone Point, for the uses 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.

2. *And be it enacted*, That all the provisions of the act, entitled "An act to erect Baltimore-town, in Baltimore County, into a city, and to incorporate the inhabitants thereof," and of all the acts supplementary and in addition to the said act, shall be and hereby are extended and applied to the present

precincts of the City of Baltimore, and the part of Baltimore County included within the bounds and limits described in the preceding section, and to the inhabitants thereof; *provided always*, that nothing in this Act shall be construed to prevent any of the turnpike road companies heretofore incorporated, from keeping up any gate or gates now established, or from establishing others as authorized by law, before the passing of this Act, or from receiving and collecting the tolls heretofore allowed and established.

3. *And be it enacted*, That the Mayor and City Council of Baltimore shall be, and hereby are authorized and required, to cause the metes and bounds described in the first section of this Act, to be forthwith surveyed and distinctly marked, and suitable boundary stones, marked as boundaries of the said city, to be placed at the beginning and at the termination of each line; and boundary stones marked as aforesaid, and not at a greater distance than fifty perches from each other, to be placed on all the lines which are not in the water, and do not run with some natural boundary; and that the said Mayor and City Council shall cause two plots of the said survey to be made and duly certified, one of which to be returned to, and recorded in, the office of the Clerk of Baltimore County Court, among the land records of the said county, and the other shall be returned to, and recorded in, the office of the Mayor of said city, and copies of the said plots, duly certified by the keepers of the said records for the time being, respectively, and under their respective seal of office, shall be admitted as evidence in all courts of justice within the State.

4. *And be it enacted*, That the Mayor and City Council of Baltimore shall cause the precincts of the said city, and that part of Baltimore County which is by this Act annexed thereto, forthwith to be divided and laid off into such numbers of new wards as to give to each, as nearly as may be, the same number of inhabitants with the present wards respectively, and such division shall from time to time alter and correct as is provided by law in relation to the present wards; and that for each new ward there shall be two members of the First Branch of the City Council, and one member of the Second Branch, which shall be increased in number accordingly, and one elector of Mayor; all of whom shall be elected at the same time, and in the same manner, with the electors and members elected by the present wards, and the like qualification of the voters and persons elected.

5. *And be it enacted*, That all inhabitants of the precincts

and territory by this Act annexed to the City of Baltimore, being qualified for members of the House of Delegates of this State, electors of the Senate of this State, and electors of the President and Vice-President of the United States respectively, shall vote in all elections of members of the House of Delegates of this State, electors of the Senate of this State, Sheriff of Baltimore County and electors of the President and Vice-President of the United States, for the City of Baltimore, and as part thereof, and not otherwise; and that for the purpose of holding such elections in the said city as hereby enlarged, the same shall be forthwith divided into eight election districts, pursuant to the Act, entitled "An Act to alter and abolish and repeal, certain parts of the constitution and form of government of this State as are therein mentioned;" for the making of which division the Mayor and City Council of Baltimore shall forthwith appoint five commissioners, two of whom at least shall be taken from the additions to the said city made by this Act, and who shall forthwith proceed in such manner, and under such regulations, as the said Mayor and City Council shall prescribe, to lay off and establish the said eight election districts, and to fix and establish the places of holding elections therein respectively; and all such elections shall be held at the said places in the manner, and subject to the rules, regulations and provisions, heretofore made by law concerning elections in the City of Baltimore, except so far as they are hereby altered.

6. *And be it enacted*, That the said new wards to be laid off by virtue of this Act, shall in all respects, and to all intents and purposes, be subject to the powers, jurisdiction and authority, vested, or to be vested, by law, in the Mayor and City Council of Baltimore, and in the corporation of the said city, and shall be in all respects taken and considered as parts of the said city and corporation; *provided, nevertheless*, that no part of the city tax of two dollars in the hundred pounds shall be imposed on any real or personal property within any of the said wards, until there shall be at least five dwelling houses on each acre of land; that is to say, that each acre of such land, and the property thereon, shall be wholly exempted from the said tax till there shall be erected on such acre five dwelling houses, nor shall any tax for the making or repairing of the public roads or bridges of the county, out of the limits aforesaid, be levied upon the property within those limits.

7. *And be it enacted*, That the five following persons, to wit: John Beall Howard, Joseph Ford, Caleb Merryman, Labou

Welsh and Robert Lyon, shall be and are hereby appointed commissioners to ascertain and fix new places for holding elections in the first and fourth election districts of Baltimore County respectively, instead of the places heretofore fixed and established for that purpose in the said districts, and shall proceed in the execution of their duty, in the same manner and under the like penalties, as are prescribed in the Act, entitled "An Act to regulate elections, for the Commissioners appointed by virtue thereof."

8. *And be it enacted*, That all acts, and parts of acts, inconsistent with the provisions of this Act, shall be, and are hereby repealed.

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

The present city boundaries were established by virtue of the Act of 1816, ch. 209, and the Act of 1888, ch. 98.

As to the Act of 1816, ch. 209, and the boundaries of the counties, *see* Raab v. The State, 7 Md. 494. Hammond's lessee v. Inloes, 4 Md. 144, and Public General Laws, Art. 1, sec. 10.

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

## ANNEXATION ACT.

1888, ch. 98.

AN ACT to extend the limits of Baltimore City by including therein parts of Baltimore County.

Section 1. *Be it enacted by the General Assembly of Maryland*, That all that part of Baltimore County which is included within the following metes and bounds, that is to say:



*Beginning* for the same at the intersection of the present northern boundary line of the City of Baltimore with the present eastern boundary line of said city, and running thence northerly on and with the line of the said present eastern boundary line of said city if said line were extended northerly to a point on a line drawn due east and west two miles due north from the intersection of the west side of Charles street with the north side of North avenue, and thence running with and bounding on said line westerly until said line intersects the northeast side of the Baltimore and Reisterstown turnpike road, and thence running and binding on said side of said road southeasterly to the point of its intersection with the north line of North avenue, and thence running easterly with the north line of said avenue to the place of beginning, shall be annexed to and become a part of the City of Baltimore, at the time and upon the conditions hereinafter mentioned.

Sec. 2. *And be it further enacted*, That all that part of Baltimore County which is included within the following metes and bounds, that is to say:

*Beginning* for the same at the intersection of the northeast side of the Baltimore and Reisterstown road with the north line of North avenue, and running thence on the said northeast side of said road, northwesterly, until said line intersects a line drawn due east and west two miles due north from the intersection of the west side of Charles street with the north side of North avenue, and running thence westerly on said line until it intersects a line drawn parallel to and distant westerly two miles from the west of Payson street, as laid down on Poppleton's map of Baltimore City, measured at right angles thereto, and thence southerly with said line, and binding thereon, to a point where said line would be intersected by a line running due west from the point on the present western boundary of the City of Baltimore, which is nearest to the junction of Gwynn's Falls and Gwynn's Run, then reversing said last mentioned line and binding thereon, to its beginning, and thence northeasterly, binding on the present western boundary line of Baltimore City, to its intersection with the north side of North avenue, thence easterly on the north side of North avenue to the place of beginning, shall be annexed to and become a part of the City of Baltimore, at the time and upon the conditions hereinafter mentioned.

Sec. 3. *And be it further enacted*, That all that part of Baltimore County which is included within the following metes and bounds, that is to say:

*Beginning* for the same at the intersection of the present northern boundary line of the City of Baltimore with the present eastern boundary line of said city, and running thence northerly on and with the line of said present eastern boundary line of said city if said line were extended northerly to a point on a line drawn due east and west two miles due north from the intersection of the west side of Charles street with the north side of North avenue, and thence running with and bounding on said line easterly until said line intersects a line drawn northerly and southerly and parallel to East street as laid down on the map of the Canton Company's property, and one mile distant therefrom, measured at right angles thereto, thence southerly binding on said line to the Patapasco River, and thence in a southwesterly direction to a point in the division line between Anne Arundel and Baltimore counties, nearest to the south boundary line of the Marine Hospital property, and thence along said division line between said counties to a point in said division line nearest to the most westernmost boundary of what is known as the one-half acre lot, owned jointly by the Commissioners of Anne Arundel County and the Mayor and City Council of Baltimore, and thence in a northwesterly direction to a point on the Baltimore County shore line, where the west branch of the Patapasco River intersects the middle branch of said river, and thence following the shore line of the middle branch of the Patapasco River to the present city limits, shall be annexed to and become a part of the City of Baltimore, upon the condition hereinafter mentioned.

Sec. 4. *And be it further enacted*, That the question whether that portion of Baltimore County described in the first section of this Act shall be annexed to and become a part of Baltimore City, shall be submitted to the qualified registered voters residing within the said portion of Baltimore County, at a special election to be held for this purpose, on the third Tuesday in May, 1888, for which election there shall be one polling place in each one of the existing election precincts of Baltimore county, embracing any part of the territory described in the first section of this Act, and all persons entitled to vote at said

election shall vote at the polling place within the election precinct in which they are or shall be registered: the Governor of Maryland, shall, at least twenty days before the day of election, designate the location of said polling places, which shall not be in any house where spirituous or fermented liquors or lager beer are sold, and he shall also appoint three judges and two clerks of election for each polling place, who shall be residents of and voters in the portion of Baltimore County described in the first section of this Act: at least one of which said judges and one of said clerks shall be persons known to be in favor of "City extension," and at least one of which said judges and the other of said clerks shall be persons known to be against the "City extension;" the polls at said election shall be kept open from six o'clock in the morning until seven o'clock in the evening; the ballots to be cast at the said election shall have written or printed on them "For the city extension" or "Against the city extension;" at the close of said polls the judges of election shall count the ballots which have been cast, and shall ascertain the number of votes cast "For the city extension" and the number cast "Against the city extension," and shall make out under their hands, attested by the clerks, or one of them, three distinct statements or certificates of the number of votes cast "For the city extension" and "Against the city extension," one of which certificates shall be entered on each of the poll books used at the said election, and the other one of said certificates shall be by said judges sent forthwith to the Governor of the State, who shall ascertain the result of the votes cast at the several voting places, and make known the same by his proclamation; and if the Governor shall, by his proclamation, declare that a majority of all the votes cast at the said election were cast for the city extension, then from and after the first day of June, 1888, all that portion of Baltimore County described in the first section of this Act shall become and be a part of Baltimore City. Each of the said judges and clerks of election shall, before entering upon their duties, make oath or affirmation before the Clerk of the Circuit Court for Baltimore County (of which oath or affirmation a record shall be kept by said clerk), that he will faithfully conduct said election and protect it to the best of his ability against all frauds and unfairness; any violation of the terms of said oath shall be deemed a misdemeanor, and shall, on conviction, subject the offender to punishment by a fine of not less than five hundred dollars nor more than one thousand dollars, or to imprisonment for not less than one month nor more than six months, or

to both fine and imprisonment, in the discretion of the Court. The said judges of election shall return the ballots to the Governor of the State, and one of the said poll-books containing the certificate above mentioned to the Clerk of the Superior Court of Baltimore City, and the other to the Clerk of the Circuit Court for Baltimore County.

Sec. 5. *And be it further enacted,* That the question of whether that portion of Baltimore County described in the second section of this Act shall be annexed to and become a part of Baltimore City, shall be submitted to the qualified registered voters residing within the said portion of Baltimore County, at a special election to be held for this purpose on the third Tuesday in May, 1888, for which election there shall be one polling place in each one of the existing election precincts of Baltimore County, embracing any part of the territory described in the second section of this Act; and all persons entitled to vote at said election shall vote at the polling place within the election precinct in which they are or shall be registered, and all the provisions contained in section four of this Act for the holding of the special election therein mentioned, and for ascertaining and declaring the result thereof, shall be applicable to the election to be held under this section, except that the judges and clerks of election shall be residents of and voters in that portion of Baltimore County described in the second section of this Act, and if it shall appear by the proclamation of the Governor, so to be issued, that a majority of all the votes cast at the election provided for in this section were cast for the city extension, then from and after the first day of June, 1888, all that part of Baltimore County described in the second section of this Act shall become and be a part of Baltimore City.

Sec. 6. *And be it further enacted,* That the question of whether that portion of Baltimore County described in the third section of this Act shall be annexed to and become a part of Baltimore City, shall be submitted to the qualified registered voters residing within the said portion of Baltimore County, at a special election to be held for this purpose on the third Tuesday in May, eighteen hundred and eighty-eight; for which election there shall be one polling place in each one of the existing election precincts of Baltimore County, embracing any part of the territory described in the third section of this Act; and all persons entitled to vote at said election shall vote at the polling place within the election precinct in which they are or shall be registered; and all the provisions contained in section four of this Act for the holding of the special election therein men-

tioned, and for ascertaining and declaring the result thereof, shall be applicable to the election to be held under this section, except that the judges and clerks of election shall be residents of and voters in that portion of Baltimore County described in the third section of this Act; and if it shall appear by the proclamation of the Governor, so to be issued, that a majority of all the votes cast at the election provided for in this section are "For the city extension," then from and after the first day of June, 1888, all that part of Baltimore County within the boundaries described in the third section of this Act shall become and be a part of Baltimore City.

Sec. 7. *And be it further enacted,* That the elections mentioned in the fourth, fifth and sixth sections of this Act shall be held in accordance with the provisions of the Code of Public General Laws of Maryland relating to general elections in this State, so far as the same are applicable and not inconsistent with the provisions of this Act; and for the preservation of peace and order at said elections, the Governor shall appoint for each of the territorial divisions described in the first, second and third sections of this Act, three persons of approved capacity and integrity and voters in and residents of the territorial division in which they shall be appointed, who shall be termed supervisors of election, and who shall be conservators of the peace in their respective territorial divisions, and invested with full power and authority to preserve peace, order and quiet at said elections; said supervisors in their respective territorial divisions shall be charged with the special duty, and are hereby required previous to the day for said elections, to appoint and provide for each election precinct therein a special force consisting of not exceeding ten persons, to be selected from the persons residing in the territory proposed to be annexed, under the command of a person also to be appointed by them, to be designated as captain, and the said special force shall have the same power in the premises as the police force of Baltimore City, as conservators of the peace within the city limits, and it shall be the duty of each member of said special force to execute every warrant and commitment which the said supervisors or either of them, or the judges of election or either of them, shall issue; the Sheriff of Baltimore County shall not appoint any deputies of any of said precincts; said supervisors shall receive the sum of five dollars each for each day of actual service, not to exceed three days, and said special force shall each receive three dollars for their services on the day of said elections. The Governor in appointing said supervisors shall select

for each territorial division one of the three persons to be appointed therefor from among the voters and residents of said territorial division known to be opposed to city extension and annexation, one thereof known to be in favor of city extension and annexation, the third to be selected at his discretion; said supervisors, before entering on the discharge of their duties, shall severally take and subscribe before some Justice of the Peace of the State an oath or oaths similar to the oath or oaths prescribed to be taken by supervisors of election in Baltimore City, and after the day of election their office shall terminate; for any failure to discharge any duty imposed upon him by this Act the Sheriff of Baltimore County shall be subject to a penalty of five thousand dollars, and for the payment of the same his official bond shall be liable.

Sec. 8. *And be it further enacted*, That the said judges shall be conservators of the peace during the continuance of the election so held by them, and until the ballots shall have been counted by them and the necessary certificates required by this Act shall be made out, and shall be vested with the power and authority to commit offenders for any breach of the peace in like manner as any justice of the peace has under existing laws.

Sec. 9. *And be it further enacted*, That the necessary expenses of the elections provided for by this Act shall be paid by the Mayor and City Council of Baltimore; and the said judges, clerks and the Sheriff of Baltimore County shall receive the compensation fixed by law in reference to general elections.

Sec. 10. *And be it further enacted*, That it shall not be lawful for the keeper of any hotel, tavern, store, drinking establishment or any other place where liquors are sold, or for any person or persons directly or indirectly to sell, barter, or give, or dispose of any spirits or fermented liquors, ale, or beer, or intoxicating drinks of any kind within the boundaries mentioned in the first, second and third sections of this Act, and on the day on which the elections mentioned in the fourth, fifth and sixth sections of this Act are held; and any person violating the provisions of this section shall be subject to the provisions of section 84 of Article 5 of the revised Code of eighteen hundred and seventy-eight of the Public General Laws of Maryland.

Sec. 11. *And be it further enacted*, That all the provisions of the Constitution of Maryland, and of the Act entitled "An Act to erect Baltimore town, in Baltimore County, into a city, and incorporate the inhabitants thereof," and all acts of the General Assembly of Maryland, supplementary and in addition to the said Act, relating to the City of Baltimore, now in force;

and all the provisions of Article 4 of the Code of Public Local Laws of Maryland, entitled "City of Baltimore," shall be and the same are hereby extended and made applicable to such portions of Baltimore County as shall, under the provisions of this Act, be annexed to and made a part of Baltimore City; and thereupon all the provisions of the Code of Public Local Laws of Maryland relating to Baltimore County, except as herein excepted, shall cease to be in force in such portions of Baltimore County as shall, under the provisions of this Act, be annexed to and made a part of Baltimore City; provided, however, and it is hereby expressly declared, that all acts of assembly of the State of Maryland now in force, relating to the sale of spirituous or fermented liquors or lager beer in certain parts of Baltimore County, and prohibiting the issue of licenses therefor, shall be and remain in full force and operation in each and every portion of Baltimore County which, under the provisions of this Act, shall become a part of Baltimore City; and all the provisions of said acts of Assembly which make it unlawful for the Clerk of the Circuit Court for Baltimore County to issue licenses for the sale of spirituous or fermented liquors or lager beer in certain parts of Baltimore County shall be applicable to the Clerk of the Court of Common Pleas of Baltimore City, who is hereby prohibited from issuing any license for the sale of spirituous or fermented liquors or lager beer in any place in reference to which the Clerk of the Circuit Court for Baltimore County is now prohibited from issuing a similar license.

Sec. 12. *And be it further enacted*, That all streets, avenues, or alleys lying in any portion of Baltimore County which, under the provisions of this Act, shall become a part of Baltimore City, and which shall have been legally condemned as streets under the provisions of the acts of Assembly of Maryland relating to streets in Baltimore County, shall be held to be validly constituted streets of Baltimore City in all respects as if the same had been legally condemned as such by the Mayor and City Council of Baltimore; and all proceedings for the laying off, opening, grading and construction of streets, avenues or alleys, which shall have been begun under the existing street laws of Baltimore County, prior to the passage of this Act, shall be proceeded with and completed under said street laws of Baltimore County, in all respects as if this Act had not been passed.

Sec. 13. *And be it further enacted*, That the Mayor of the City of Baltimore is hereby authorized and directed to appoint one Commissioner, and the County Commissioners of Balti-

more County are authorized and directed to appoint one Commissioner, and the Governor of the State shall appoint one Commissioner, and it shall be the duty of said Commissioners, or a majority of them, forthwith to cause the metes and bounds of the territory described in the first, second and third sections of this Act, to be surveyed, located and marked by such monuments as will, in their judgment, point out with sufficient distinctness the location of said metes and bounds; and they shall cause separate plats or maps to be made of the portion of territory described in each of the first, second and third sections of this Act, on which plats or maps shall be shown the outlines of said territory and the lines and boundaries of the election precincts in said territory, together with such roads and other landmarks as will, in the judgment of said commissioners, or a majority of them, afford sufficient means of information to determine what persons are resident within the portion of territory described in each of the said first, second and third sections of this Act; and the said Commissioners, or a majority of them, shall cause copies of said maps or plats to be set up in the said territory, at such places as they shall select, and shall furnish copies of the same to the judges of elections for use at the polls, and shall, by advertisements inserted in at least four of the daily newspapers published in Baltimore City, and three published in Towsontown, at least ten days before the day of election, give such information in reference to the location and boundaries of the several portions of territory proposed to be annexed to Baltimore City, and such explanation of said plats or maps as will, in their judgment, enable all persons to ascertain whether they are entitled to vote at said special elections and their respective polling places. If either of the portions of territory described in the first, second or third sections of this Act shall become a part of Baltimore City under the provisions hereof, the Mayor and City Council of Baltimore shall cause a map or plat of such portion or portions of territory so becoming a part of Baltimore City, certified to be correct by the Mayor of said city, to be filed and recorded among the land records of Baltimore City in the office of the Clerk of the Superior Court of Baltimore City, and among the land records of Baltimore County in the office of the Clerk of the Circuit Court for Baltimore County, and shall also cause permanent boundary stones to be set up to mark the boundaries of said extension. The Commissioners above mentioned shall each receive \$7.00 a day for the time they shall be properly and reasonably engaged in the discharge of the duties imposed on them by this Act,



to be paid to them by the Mayor and City Council of Baltimore; the surveying work required by this section shall be done by the Surveyor of Baltimore City and Baltimore County at a compensation to be fixed by said Commissioners, and to be paid by the Mayor and City Council of Baltimore, who shall also pay all other reasonable and proper expenses incurred by the said Commissioners in the discharge of their said duties.

Sec. 14. *And be it further enacted*, That the Clerk of the Circuit Court for Baltimore County shall cause to be made out, under his hand and the seal of the Court, two copies of the poll-books or lists of qualified and registered voters of the following election precincts of Baltimore County as made out and returned to his office by the officers of registration after the close of their October sittings in the year 1887, that is to say, the first, third, fourth, fifth and sixth election precincts of the third election district; the first, second and fourth election precincts of the ninth election district; the first, third and fifth election precincts of the twelfth election district, and the first and second election precincts of the thirteenth election district, and any other precinct embracing any portion of the territory by this Act proposed to be annexed to the City of Baltimore; and also two additional copies of the said poll-books for the said first precinct of the ninth district, the third precinct of the third district, and the said third and fifth precincts of the twelfth district. The expense of preparing said poll-books to be paid to said Clerk of the Circuit Court for Baltimore County by the Mayor and City Council of Baltimore, and shall, on the Saturday preceding the third Tuesday in May, 1888, deliver the said poll-books to the Sheriff of Baltimore County, who shall, before the opening of the polls on the morning of the third Tuesday in May for the holding of the elections by this Act provided for, deliver to the respective judges appointed to hold said election in each of said precincts the poll-books or lists of qualified and registered voters pertaining to the election precinct over which said judges are to preside; and as to the first precinct of the ninth district, he shall deliver two copies of the poll-books for said precinct to the judges holding the said election within that part of said precinct which is within the territory described in the first section of this Act, and the other two copies he shall deliver to the judges holding the election in that part of said precinct which is within the territory described in the third section of this Act; and as to the third precinct of the third district, he shall deliver two copies of the said poll-books for said precinct to the judges holding the said election within that part of said precinct which is within

the territory described in the first section of this Act, and the other two copies he shall deliver to the judges holding the election in that part of said precinct which is within the territory described in the second section of this Act, and as to the third precinct of the twelfth district, he shall deliver two copies of the said poll-books for said precinct to the judges of election holding the said election in that part of said precinct which is within the territory described in the first section of this Act, and the other two he shall deliver to the judges holding the said election in that part of said precinct which is within the territory described in the third section of this Act, and as to the fifth precinct of the twelfth district, he shall deliver two copies of the poll-books for said precinct to the judges holding said election in that part of said precinct which is within the territory described in the first section of this Act, and the other two copies he shall deliver to the judges holding the election in that part of said precinct which is within the territory described in the third section of this Act. And it shall be the duty of the Commissioners for whose appointment provision is made in the thirteenth section of this Act, to cause to be made and printed, separate lists, as to each of the existing precincts of Baltimore County, of the names of all the persons on said poll-books who live in each of the several portions of territory described in the first, second and third sections of this Act, which lists as to each of said precincts shall be furnished to the judges of elections of said precinct before the day of election, to assist them in the discharge of the duties of their office, and shall cause the said lists to be posted and circulated throughout the precincts to which they respectively belong, at least five days before the said election.

Sec. 15. *And be it further enacted,* That when any portion of the territory mentioned in this Act shall have been annexed to the City of Baltimore under its provisions, the Police Commissioners of Baltimore City shall proceed forthwith to divide and lay off the same into such number of precincts as shall in their judgment be best, and having as nearly as practicable an equal number of qualified voters in each precinct, and being each as regular in form as is reasonably practicable, designating the same precincts by numbers, beginning with the number 181; and when the said precincts have been so laid out, the Mayor and City Council of Baltimore shall divide the said precincts into such numbers of wards as shall give to each ward, as near as may be practicable, the same number of inhabitants as are now contained in one of the present wards of the City of

Baltimore; the number of wards so to be created, however, to be an even number, and said Board of Police Commissioners of Baltimore City, in laying off said precincts, and the said Mayor and City Council of Baltimore, in dividing the same into wards, shall proceed under the provisions of the Act of eighteen hundred and eighty-two, Chapter 2, so far as the same shall be applicable, but the times mentioned in said Act within which the said precincts and wards therein mentioned shall be laid off, shall not be applicable to the work to be done under this Act. There shall be elected one member to the First Branch of the City Council of Baltimore from each of the said new wards, and one member of the Second Branch of the City Council of Baltimore shall be elected from every two contiguous wards of the said new wards; and all of the inhabitants thereof shall, in all respects, and to all intents and purposes, be subject to the powers, jurisdiction and authority vested, or to be vested by law in the Mayor and City Council of Baltimore, and to all the ordinances now in force, or hereafter to be enacted, except so far as they may be expressly excepted therefrom, and except so far as the same may be inconsistent with the provisions of this Act; and the parts so annexed shall in all respects be taken and considered as part of said City of Baltimore, but the provision of said ordinance relating to the erection of frame buildings in said city shall not apply to the territory so annexed until expressly made applicable thereto by ordinance or ordinances of the said Mayor and City Council.

Sec. 16. *And be it further enacted*, That the Governor shall nominate and appoint one additional Justice of the Peace for each ward that shall be set off under the provisions of this Act.

Sec. 17. *And be it further enacted*, That the several portions of territory which, under the provisions of this Act, shall be annexed to the City of Baltimore, shall remain as of the same congressional district or districts of which they now form a part, and the territory described in the first section of this Act shall constitute, if annexed to the City of Baltimore, a part of the second legislative district of said city; the territory described in the second section of this Act shall, if annexed to the City of Baltimore, constitute a part of the third legislative district of the said city; and the territory described in the third section of this Act shall, if annexed to the City of Baltimore, constitute a part of the first legislative district of said city.

Sec. 18. *And be it further enacted*, That the Mayor and City Council of Baltimore shall pay to the County Commissioners of Baltimore County such a sum as shall be ascertained to be

a fair value of the fire engine houses and the fire engines and apparatus used in connection therewith, and the station-houses, lamps and school-houses within the limits of such portions of the territory described in the first, second and third sections of this Act; which value shall be ascertained by a majority of a board of three arbitrators, one to be appointed by the Mayor and City Council of Baltimore, and one by the County Commissioners of Baltimore County, and the two arbitrators thus appointed shall appoint the third arbitrator; and if they cannot agree upon such third arbitrator, the latter shall be appointed by the Governor of Maryland; the amount as to be ascertained shall be paid within ninety days from the award of said arbitrators.

Sec. 19. *And be it further enacted,* That until the year nineteen hundred, the rate of taxation for city purposes upon all landed property situated within the territory which, under the provisions of this Act, shall be annexed to the City of Baltimore, and upon all personal property liable to taxation in said territory, whether owned by persons, corporations or otherwise, and upon which taxes would be paid to Baltimore County if said territory should not be annexed to the said city, shall at no time exceed the present tax rate of Baltimore County; and, until the year nineteen hundred, there shall not be for the purposes of city taxation any increase in the present assessment of such property as is now assessed; and all property in the said territory which is not now assessed, but which may be within the same period liable to assessment, shall be assessed at the same rate as similar property is now assessed in said territory; and during the said period up to the year nineteen hundred, the City of Baltimore shall expend within said territory an amount at least equal to the amount of revenue derived from taxation on the basis herein set forth from the said territory, in affording to the residents within said territory the rights and privileges accorded to and enjoyed by the residents within what are the present limits of said city; but nothing in this Act shall be so construed as to require the expenditure by said city of any greater sum; from and after the year 1900 the property, real and personal, in the territory so annexed, shall be liable to taxation and assessment, therefor, in the same manner and form as similar property within the present limits of said city may be liable; provided, however, that after the year 1900 the present Baltimore County rate of taxation shall not be increased for city purposes on any landed property within the said territory until avenues, streets or alleys, shall have been opened and

constructed through the same, nor until there shall be upon every block of ground so to be formed at least six (6) dwelling or store-houses ready for occupation.

Sec. 20. *And be it further enacted*, That if any portion of the territory, described in this Act shall, under its provisions, become annexed to Baltimore City, the County Commissioners of Baltimore County are hereby directed in lieu of such places for holding elections in Baltimore County as are now fixed by law, which are situated within the territory so annexed, to fix other places for the holding of said elections outside of the territory so annexed, and if the annexation of any territory which shall be annexed under the provisions of this Act shall leave a part of any election precinct of Baltimore County still within the lines of said county and a part within the annexed territory, then the part so left within the lines of Baltimore County shall constitute the same election precinct of Baltimore County as the whole now constitutes, until the County Commissioners of Baltimore County shall make other provisions in relation thereto.

Sec. 21. *And be it further enacted*, That nothing in this Act shall affect the right of any turnpike or toll-road company heretofore chartered by this State from collecting tolls upon such parts of their roads as shall under this Act be brought within the limits of Baltimore City; nor shall any provision in the charters of said companies which prohibits the erection of a toll-gate within one mile of Baltimore City operate to require the removal of any toll-gates which are now located within the territory proposed to be annexed by this Act.

Sec. 22. *And be it further enacted*, That if any portion of the territory mentioned in this Act shall be annexed to the City of Baltimore, the Mayor and City Council of Baltimore are hereby authorized to increase the number of the judges of the Appeal Tax Court to such number as in its judgment will be adequate for the proper discharge of the duties of said Court.

Sec. 23. *And be it further enacted*, That the county taxes levied for the year 1888 upon persons and property within such portions of the territory as under the provisions of this Act shall become a part of Baltimore City shall be collected by the Treasurer of Baltimore County in all respects as if this Act had not been passed; but one-half of said taxes so collected shall be paid to the Mayor and City Council of Baltimore, and the said Treasurer is hereby authorized to employ such additional assistance as shall be needed to enable him to comply with the provisions of this section, the amount to be paid

therefor to be determined by the Mayor and to be paid by the Mayor and City Council of Baltimore.

Sec. 24. *And be it further enacted*, That if the territory described in the first section of this Act shall, under its provisions, become a part of Baltimore City, the Board of Police Commissioners for the City of Baltimore are hereby authorized to appoint, enroll, arm and equip thirty (30) policemen in addition to the number they are now authorized to appoint; and if the territory described in the second section of this Act shall, under its provisions, become a part of Baltimore City, the Board of Police Commissioners for the City of Baltimore are hereby authorized to appoint, enroll, arm and equip fifteen (15) policemen in addition to the number they are now authorized to appoint; and if the territory described in the third section of this Act shall, under its provisions, become a part of Baltimore City, the Board of Police Commissioners for the City of Baltimore are hereby authorized to appoint, enroll, arm and equip fifteen (15) policemen in addition to the number they are now authorized to appoint; and the said Board of Police Commissioners are hereby authorized and directed to divide such of said territory as shall become a part of Baltimore City into as many police districts as they shall think best, and to appoint for each police district the same officers as they are now by law authorized to appoint for each police district in the City of Baltimore.

Sec. 25. *And be it further enacted*, That before the Mayor and City Council of Baltimore shall lay any water pipes along any street, road, lane or avenue in the territory mentioned in the second section of this Act, upon which the Catonsville Water Company has laid its pipes and other water appliances, the said Mayor and City Council of Baltimore shall, if said company desires to surrender said pipes and water appliances in such street, road, lane or avenue to the Mayor and City Council of Baltimore, pay to the said company the fair value of its water pipes and other water appliances constructed in said street, lane, road or avenue, and such actual damages to the said company as shall be caused by the acquisition of said pipes and appliances by the Mayor and City Council of Baltimore; and the amount so to be paid, if the said company and the said Mayor and City Council of Baltimore cannot agree in reference thereto, shall be ascertained by a majority of a board of three (3) arbitrators, one to be appointed by the Mayor and City Council of Baltimore, and one by said company; and the two arbitrators thus

appointed shall appoint the third arbitrator; and if they cannot agree upon such third arbitrator, the latter shall be appointed by the Governor of the State.

Sec. 26. *And be it further enacted,* That all school teachers who shall be connected with the public schools in such parts of the territory described in this Act as shall be annexed under its provisions to Baltimore City, shall be allowed to retain their respective positions for the scholastic year beginning September, eighteen hundred and eighty-eight; and such teachers shall be deemed qualified and continue eligible without further examination to occupy positions as teachers in the public schools in the same manner as if they had complied with the examination now required for teachers in the public schools of Baltimore City.

Sec. 27. *And be it further enacted,* That the bridges which the County Commissioners have heretofore agreed to build within the limits of the territory which may become annexed to Baltimore City shall be completed by the City of Baltimore; and all bridges within the limits of the territory which may become annexed to Baltimore City by virtue of this Act shall be maintained and kept in repair for public travel at the expense of Baltimore City; and if the territory described in either the first, second or third sections of this Act shall, under its provisions, be annexed to the City of Baltimore, then, and in that event, all bridges crossing the Patapsco River from said city, including the bridge known as the "Long" or Light street bridge, shall be maintained and kept in repair for public travel at the sole expense of the said City of Baltimore, and all acts or parts of acts inconsistent herewith are hereby repealed.

Sec. 28. *And be it further enacted,* That this Act shall take effect from the date of its passage.

Approved March 14, 1888.

At the election authorized by the above Act, the Northern and Western Annexes became a part of the city. Annexation of the Eastern section was defeated by a vote of 485 against, to 317 for annexation.

1914, Chapter 463.

## CODE OF PUBLIC GENERAL LAWS.

## ARTICLE 33-A.

## EMINENT DOMAIN.

REGULATING THE PROCEDURE FOR THE ACQUISITION OF  
PROPERTY FOR PUBLIC USE BY CONDEMNATION.

1. The proceedings for the acquisition of private property for public use shall be as follows:

2. The proceedings shall be begun by the filing of a petition in the Circuit Court for the county in which the property sought to be condemned is situated, on the law side thereof, or in one of the law courts of Baltimore City, if such property is situated in Baltimore City, by the State, municipal, or other corporation, commission, board, body or person seeking to have the property condemned, and against the owner or owners thereof, and the husbands and wives of married owners. In case any owner or owners is or are not known, he or they may be described in such petition as the unknown owner or owners, or the unknown heir or heirs of a deceased owner. The petition shall set forth a description of the property sought to be acquired, sufficient for identification, a statement of the purpose for which same is sought to be condemned, and that the petitioner is unable to agree with the owner or owners thereof, or that one or more of said owners is or are under some legal disability to contract, unknown or non-resident, according to the facts; and the said petition shall contain a prayer that the said property may be condemned.

3. Upon the filing of said petition, the Court or any Judge thereof shall pass an order directing a summons to issue for the defendants, to be served in the same manner as a summons in actions at law, and to be returned by some day to be named in said order, not less than ten days nor more than twenty days from the day of the filing of said petition. If any defendant be not summoned before the return day of said summons, the summons may be renewed from time to time, as often as the Court in its discretion may think proper; or if any defendant is non-resident or unknown, or is returned non est, the Court may order the Sheriff to set up a copy of the summons for such defendants upon the property, and a notice to be published once a week for three successive weeks, in a newspaper published in the county



where such property is situated, and, if the proceedings be in Baltimore City, in one daily newspaper published in said city, requiring such defendant to appear in the said Court on or before a certain day to be named in the order, said day to be not less than thirty days nor more than forty days from the date of the first publication of said order, and show cause why such property, or such defendant's interest therein, should not be condemned as prayed in the petition.

4. Every defendant summoned shall, within ten days after the return day to which he is summoned, and every defendant appearing shall, within ten days after such appearance, file an answer showing cause, if any he has, why the property mentioned in the petition, or said defendant's interest therein, should not be condemned as prayed, and every defendant against whom publication has been duly made, as hereinbefore provided, shall file an answer within the time limited in such order of publication.

The Court shall have power, for good cause shown, to extend the time for answering. In default of answer within the time hereinbefore provided or any extension thereof, as aforesaid, such defendant shall be regarded as in default, so far as the right of condemnation is concerned.

If any defendant summoned as aforesaid, or against whom publication has been made as aforesaid, is under legal disability, by reason of infancy, insanity or any other cause, the Court upon the return of said summons, or the expiration of the time limited in such order of publication, upon the application of any party to said suit, shall authorize the duly constituted guardian or committee of such infant, lunatic or person under disability, to appear, answer, and defend for him within the times above specified, or if such defendant under disability shall have no constituted guardian or committee, the Court shall, upon application, appoint some suitable person as guardian ad litem to appear, answer, and defend for such defendant under legal disability, within the times above specified, and when such answer of such guardian ad litem or committee for such defendant shall be filed, the case as to such defendant shall be regarded as ready for further proceedings for said condemnation as hereinafter provided.

5. The Court shall have the same power to permit amendments of the petition, answers and other proceedings as in other actions at law, and all demurrers, motions and other proceedings therein, except as otherwise herein provided, shall be dis-

posed of in accordance with the rules and practice in said Court now governing in the trial of other civil cases at law.

6. When all the defendants in said case who have been summoned or published against, as hereinbefore provided, have either answered or are in default as aforesaid, and all defendants under legal disability have answered by their guardians, committees or guardians ad litem, as hereinbefore provided, the case shall be regarded as ready for trial, and, upon the application of any party to said suit, the Court shall forthwith set an early date to be especially fixed by it, not less than ten nor more than twenty days from the date of said application, for the trial of the issues of law and fact raised in said case, and the ascertainment of the compensation or damages to be awarded to the defendants in case it shall be determined that the land sought by the petitioner shall be condemned.

7. If the date so fixed by said Court shall occur during the regular sittings of any term of said Court, at which a regular jury is in attendance upon said Court, or can be procured to attend, the said case shall be heard before a jury selected from such regular panel, but if the date for said trial set by the Court shall occur at a time when the regular jury drawn for that term has been discharged and cannot be re-assembled under the law, then in such case the Court shall forthwith select twenty (20) good and lawful men from the names upon the regular jury list of the last Jury Term of the Court, to be summoned by the Sheriff, to attend as jurors in said Court at said time as fixed by the Court for the trial of said case, and the summoning of said jurors and the empanelling of a jury of twelve men from said regular panel or from said list of jurors so summoned by the Sheriff, shall proceed as far as practicable in accordance with the rules and practice obtaining in said Court for the selection and empanelling of jurors in other civil cases.

8. As soon as said jury is selected as aforesaid, the jurors shall be sworn by the Clerk in the usual manner in civil cases, and in addition to the usual oath in such cases, they shall be sworn to justly and impartially value the damages which the defendant owner or owners will sustain by the taking, use and occupation of the property described in the petition, by the petitioner, for the purposes therein set out, and after being so selected and sworn, the Court shall direct the Sheriff to take the jury upon the ground and premises sought to be condemned, to view the same in the usual way in condemnation cases, upon which excursion to view said property and premises, the parties to the suit, their attorneys, engineer or other representative shall

have the right to attend with said Sheriff and jury. The engineer or other representative of either party shall upon said view, point out to the jury the property sought to be condemned, and the metes and bounds thereof, and shall show the jury any adjacent property of the owners; but upon said view no party to the proceedings, or his attorney, or any other party, except as aforesaid, shall be permitted to make any statement or remark to the jury or in their presence relative to said property.

9. After said view, and the jury has returned to said Court, the trial of the issues of law and fact in the case, relative to the right to condemn said land, and the damages which will be occasioned to the defendant owner or owners thereof by the taking, use and occupation thereof by the petitioner, and the amount of just compensation therefor to each defendant, and of all other issues which may properly arise in said case, shall be proceeded with before said Court and jury in the same manner and under the same rules of law and practice, pertaining to the admissibility of evidence, the instructions of the Court, and all other matters arising under said proceedings, as in other civil cases, except as herein otherwise provided. Either party may except to any ruling of the Court, admitting or excluding evidence, or granting or rejecting instructions, or made upon any other motion, exception or proceeding in the cause, in the usual method of trials of civil cases, and in case of appeal as hereinafter provided, bills of exceptions shall be presented, settled and signed according to the prevailing practice in said Court.

10. Any person who has not been made a party to said proceedings, who shall have, or claim to have any interest in the property sought to be condemned, may voluntarily intervene in said case, at any time before the trial of the same, and upon petition may, by order of said Court, be made a party defendant to said proceedings upon such terms and conditions as the Court shall direct, and thereupon may take part and defend in the trial of said case, and shall be bound by said judgment in the same way and to the same extent as if such person intervening had been made an original party defendant in said petition.

11. Any verdict rendered by said jury may be excepted to within the time allowed by the rules of Court in other civil cases; or within the time of said rules of Court, either party may file a motion for a new trial, or in arrest of judgment, or make any other proper motion applicable to such case as in ordinary civil cases, and said motion shall be heard and disposed of by the Court as speedily as reasonably possible.

Upon any such exceptions or motions, if the Court shall set aside the verdict of the jury, it shall forthwith within the time hereinbefore provided, set a new day for the trial of the same, and upon said day so set, said Court shall proceed with the selection of a jury as aforesaid, and a new trial of the case, in all respects as hereinbefore provided, and so on until a final verdict in said case is obtained.

Upon any such verdict becoming final, if the same shall be for the defendant, upon the right to condemn, the Court shall forthwith enter a judgment in said case for the defendant with costs, but if said verdict shall be for the petitioner on the right to condemn and assessing damages to the defendants, the said Court upon said verdict shall forthwith enter a judgment in favor of each defendant against the petitioner for the amount of damages or compensation awarded to each of said defendants by the verdict of said jury and his proper proportion of the costs.

12. Any party to said cause may appeal from any such judgment to the Court of Appeals of Maryland, but any such appeal shall be entered in writing within ten days from the date of said judgment, and all bills of exceptions desired by such appealing party shall be prepared and presented to the Court to be signed, on or before the expiration of twenty days from the date of said judgment, unless such time for settling and signing said bill of exceptions shall for good cause be extended by the Court, but the record of such case and appeal in any event shall be filed with the Clerk of the Court of Appeals of Maryland, within thirty days from the date of the entry of such appeal.

13. If such judgment is in favor of the petitioner awarding compensation to the defendants and no appeal is taken from such judgment by the defendant within ten days from the date of said judgment, or in case of such appeal said judgment is affirmed, the petitioner may at once pay to the defendant owner or owners of the property condemned, the amount so awarded him or them respectively, and the costs as determined by said judgment, and in case the amount of such judgment and costs is duly tendered any such owner who refuses to receive the same, or such owner is out of the jurisdiction of the Court, or under legal disability, the petitioner may pay the same into the said Court, into the hands of the Clerk thereof, for the use of such owner or owners, and to be paid him or them at any time thereafter, and upon such payment being accepted, or upon such tender being made as aforesaid, and said payment made into Court as aforesaid, after the refusal of such tender, or because

of the absence or legal disability of such owner or owners as aforesaid, the petitioner shall at once become vested with the title, estate or interest of such owner or owners in the property so condemned. The title so acquired in any condemnation proceeding under this Act, shall be an absolute or fee simple title, and shall include and be all the right, title and interest of each and all the parties to the proceedings, whose property has been so condemned, unless otherwise specified in the judgment of condemnation.

14. Every appeal from any judgment in said proceedings to the Court of Appeals of Maryland under this Act, shall stand for hearing at the next term after the record is received by the Clerk of the Court of Appeals, if that Court be not sitting, or at the pending term if the Court is then in session, and the Court of Appeals may advance the hearing of such appeal in its discretion, and if the final decision be that the petitioner is not entitled to condemn the property, a reasonable counsel fee to be fixed by the Court shall be awarded to counsel for the defendant and taxed against the petitioner, together with the other costs of the case.

15. The State, and any municipal or other corporation, commission, board, body or person, which under the laws of this State, has the right to acquire property by condemnation, shall acquire such property, if condemnation proceedings be resorted to, in pursuance of, and under the provisions of this Article, anything in any other Public General Law or Public Local Law or private or special statute to the contrary notwithstanding; provided, however, that nothin in this Article contained shall apply to or change the present law or procedure for the opening, closing, widening or straightening of highways.

16. In any proceeding under this Act, the petitioner shall pay all the costs in the lower Court to be taxed as in ordinary actions at law, and also the usual per diem to the jurors in the trial of the case which shall be taxed along with the other costs in the case. The costs in the Court of Appeals in any appeal from any proceeding under this Act shall be paid as directed by said Court in the same manner as costs in appeals from ordinary actions at law.

17. In case any defendant shall appeal within the time aforesaid to the Court of Appeals, from any final judgment in said lower Court, condemning his property and awarding him damages and costs as aforesaid, the petitioner, if he or it so desires, may at any time after the entry of said appeal tender to such defendant or defendants appealing, the amount of the compensation, damages and costs so awarded by said jury and the judg-

ment of said Court, and if any such defendant or defendants shall refuse to accept such tender of said judgment and costs, then such petitioner may pay the same into said Court into the hands of the Clerk thereof for the use of such defendant or defendants so appealing, and to be thereafter paid over by such clerk to said defendant or defendants at any time such defendants will accept and receive the same, and upon such tender and refusal, the petitioner may at the time of such payment into Court, file with the said Clerk a bond to the State of Maryland in such penalty as said Court may prescribe, conditioned that in case said judgment shall be reversed, the petitioner shall well and truly pay and satisfy such defendant or defendants so appealing, all damages which may be caused such defendants by the petitioner, by taking possession and using the property of such defendant or defendants before the final determination of his or their appeal, which bond shall be executed by the petitioner, together with a surety or sureties approved by said Court, or the Clerk thereof, and upon said payment into Court, and the filing of such bond, the petitioner may at once, without waiting for the determination of said appeal, take possession of such property or estate or interest therein, of such defendant or defendants so appealing from said judgment. If said judgment shall be affirmed by the Court of Appeals, said bond shall thereby be discharged, and title to said property shall then vest in the petitioner as aforesaid, but if said judgment shall be reversed by the Court of Appeals, then said petitioner shall at once abandon and surrender possession of said property or estate of such defendant or defendants, and said bond shall thereupon be liable to such defendant or defendants prevailing upon such appeal, for all damages as aforesaid which have been occasioned to such defendants by the petitioner, in taking possession and using the said property, before the final determination of said appeal.

18. In the event that section 17 should be declared void for any reason by any Court of last resort, such invalidity of section 17, if so declared, shall not affect the validity or effect of any of the other sections of this Act, it hereby being declared to be the intention of the Legislature that, even if section 17 be declared void, the remainder of the Act shall stand, and to have the same effect as if said section 17 had never been enacted therewith.

Validity of an Act cannot be questioned on parole evidence.

Jessop v. Baltimore, 121 Md. 562.

This Act valid.

Ridgely v. Balto., 119 Md. 567.

1908, Chapter 98.

CONTRACT BETWEEN BALTIMORE CITY AND  
BALTIMORE COUNTY AS TO USE OF OUT-  
FALL SEWER BY BALTIMORE  
COUNTY.

AN ACT AUTHORIZING, RATIFYING AND CONFIRMING A CERTAIN AGREEMENT ENTERED INTO BETWEEN THE MAYOR AND CITY COUNCIL OF BALTIMORE AND THE COUNTY COMMISSIONERS OF BALTIMORE COUNTY IN REFERENCE TO THE CONSTRUCTION OF AN OUTFALL SEWER CONSTITUTING PART OF THE NEW SEWERAGE SYSTEM FOR THE CITY OF BALTIMORE, IN THE BEDS OF CERTAIN STREETS AND HIGHWAYS IN BALTIMORE COUNTY.

WHEREAS, The Mayor and City Council of Baltimore and the County Commissioners of Baltimore County, on the twenty-first day of March, nineteen hundred and seven, entered into a certain agreement, in the words and figures, to wit: "This agreement, made this twenty-first day of March, nineteen hundred and seven, between the Mayor and City Council of Baltimore, acting by and through the agency of the Sewerage Commission of the City of Baltimore, party of the first part, and the County Commissioners of Baltimore County, acting also as the Highways Commission of Baltimore County, party of the second part.

WHEREAS, It is necessary in the construction of the outfall sewer to be used in connection with, and as a part of the new sewerage system for the City of Baltimore, that the bed of Monument street, between Highland avenue and Tenth street, and the beds of Eleventh street, Philadelphia road, North Point road and Eastern avenue at the points where the outfall sewer crosses said streets, roads and avenues, as shown in red on the accompanying plat hereto attached, marked outfall sewer, plat No. 1, should be occupied by the said outfall sewer, and its work and appurtenances; and

WHEREAS, Said party of the second part is willing to grant to said party of the first part the right to occupy the beds of said aforementioned streets and roads, with said outfall sewer and its works and appurtenances, for the purposes aforesaid, subject to the provisions hereinafter contained; and

WHEREAS, The terms prescribed by said party of the second part are acceptable to said party of the first part, subject to said last mentioned provisions; now

*Therefore*, This agreement witnesseth: (1) Full authority is hereby granted by said party of the second part to said party of the first part, to construct and forever maintain and operate under the bed of Monument street, between Highland avenue and Tenth street, and the beds of Eleventh street, Philadelphia road, North Point road and Eastern avenue, at the points where the outfall sewer crosses said streets, roads and avenues as shown in red on the accompanying plat hereto attached, marked outfall sewer, plat No. 1, etc., said outfall sewer and its works and appurtenances, the same to be constructed, operated and maintained as a part of or in connection with said sewerage system. (2) In consideration of the rights and privileges hereby granted, the party of the second part shall have the right and authority from time to time, to tap said outfall sewer for the purposes of disposing of the house sewage and drainage, as distinguished from storm water drainage, of Highlandtown, Orangeville and Canton, upon payment to the party of the first part of the fair cost to the party of the first part of disposing of the sewerage thus brought into the outfall sewer; the said fair cost to include not only the actual cost of pumping and disposing of the said sewerage, but also the pro rata cost of maintaining the disposal plant, to be determined annually by the Board of Estimates. All work done in connection with the said tapping of said outfall sewer shall be at the sole expense of the party of the second part and shall be under the absolute direction, supervision and control of the Chief Engineer of the Sewerage Commission, or such engineer as shall be in charge of said system at the time of said tapping. Nor shall any sewer constructed by or under the authority of the party of the second part be connected up with said outfall sewer until the same has been passed upon and approved by the Chief Engineer of the Sewerage Commission, or such engineer as shall be in charge of said system at said time, the requirements and restrictions in such cases to be the same as those imposed in similar cases upon property owners in Baltimore City; provided, however, that the right to so tap the said outfall sewer upon the terms above described is subject to the express condition precedent that this agreement shall be ratified by the General Assembly of Maryland as hereinafter provided. (3) And in further consideration of the grant of the rights and privileges aforesaid by the said party of the second part to the party of the first part, said party of the first part does hereby agree to present to the General Assembly of Maryland, early in the session of 1908, a bill ratifying and confirming the foregoing agreement, and further agrees to urge the



passage of said bill by said General Assembly. It is further understood and agreed, that said party of the first part, by executing this agreement, does not admit the legal necessity of securing from said party of the second part the right and authority thus granted, but on the contrary, notwithstanding said agreement, claims that full authority to occupy the public highways of Baltimore County with said outfall sewer and its works and appurtenances, without securing the assent of said party of the second part, was granted to it directly by Chapter 349 of the Acts of the General Assembly of Maryland for the year 1904. It is further understood and agreed, that the police, legislative and governmental powers of the General Assembly of Maryland and of the Mayor and City Council of Baltimore are in no sense attempted to be abridged or restricted by this agreement.

Witness the hands and seals of the parties hereto.

TEST: As to commission H. W. ROGERS.

(Signed)	GEORGE R. GAITHER,	[SEAL]
	<i>Mayor ex officio.</i>	
	PETER LEARY, <i>Chairman,</i>	[SEAL]
	W. D. PLATT,	[SEAL]
	J. EDWARD MOHLER,	[SEAL]
	MORRIS WHITRIDGE,	[SEAL]
	IRA REMSEN,	[SEAL]
	CHARLES ENGLAND.	[SEAL]

*Sewerage Commission of the City of Baltimore.*

TEST: As to County Commissioners.

(Signed) E. STANTON BOSLEY.

(Signed)	HENRY P. MANN,	[SEAL]
	JOHN V. SLADE,	[SEAL]
	GEO. W. YELLOTT.	[SEAL]

*County Commissioners of Baltimore County, acting also as  
Highways Commission of Baltimore County.*

Approved as to form and legal sufficiency this twenty-first day of March, 1907.

(Signed)	W. CABELL BRUCE,
	<i>City Solicitor.</i>
	JOSEPH S. GOLDSMITH,
	<i>Assistant City Solicitor.</i>

Approved as to form and legal sufficiency this twenty-first day of March, 1907.

(Signed) OSBORNE I. YELLOTT,  
*Counsel to the Board.*

Approved:  
(Signed) E. CLAY TIMANUS,  
*Mayor."*

And WHEREAS, At the time of the execution of said agreement, doubt was expressed as whether or not the parties thereto had full authority to enter into the same; and

WHEREAS, It was agreed, as therein set forth, that application should be made to the General Assembly of Maryland for the passage of an act ratifying and confirming said agreement. Now, therefore,

Section 1. *Be it enacted by the General Assembly of Maryland,* That the foregoing agreement be and the same is hereby fully authorized, legalized and confirmed in every and all respects as fully as though express authority had been conferred upon the parties thereto by the General Assembly of Maryland at the time of the execution of the same.

Sec. 2. *And be it further enacted,* That this Act shall take effect from the date of its passage.

Approved March 18, 1908.

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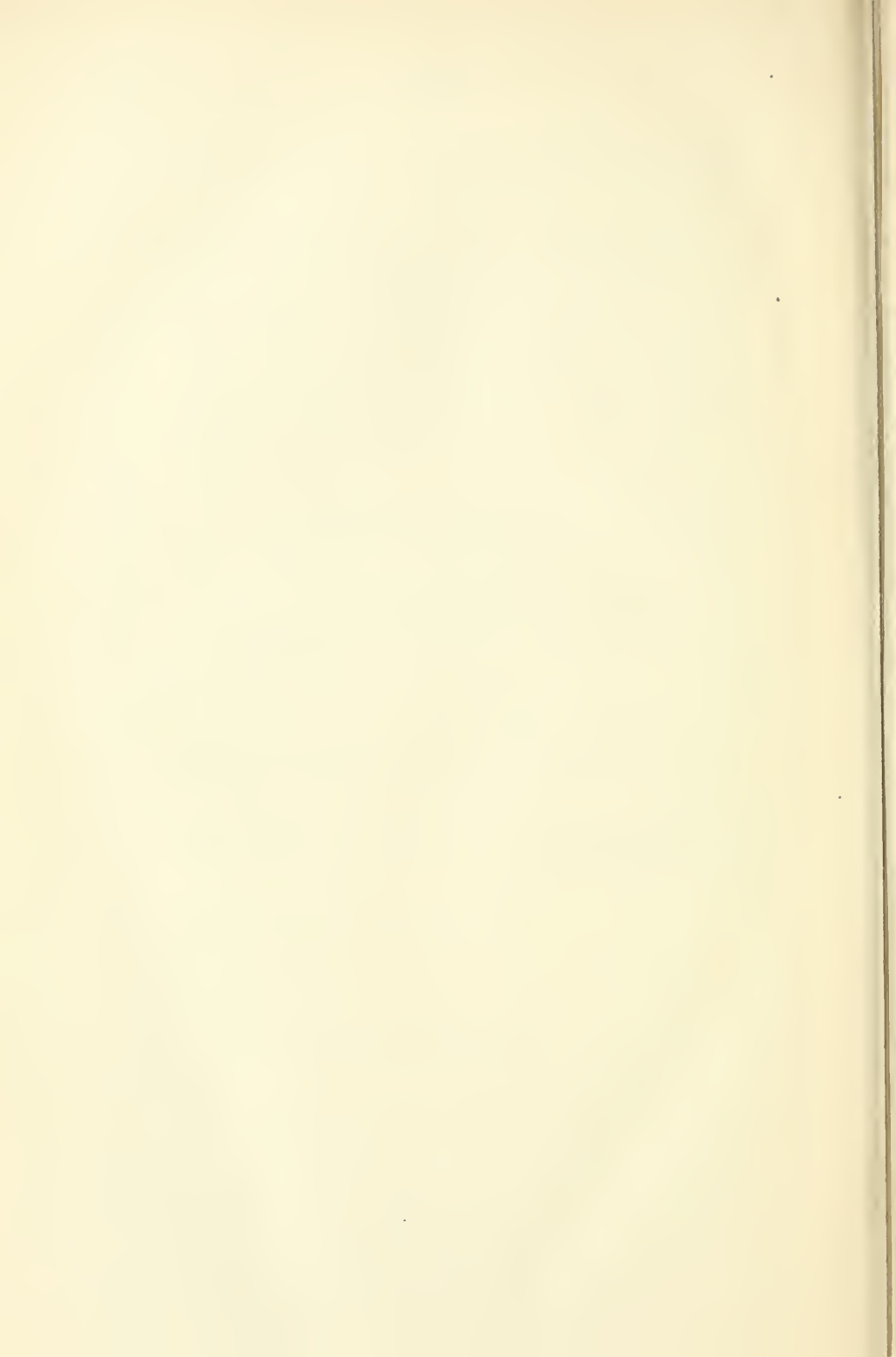
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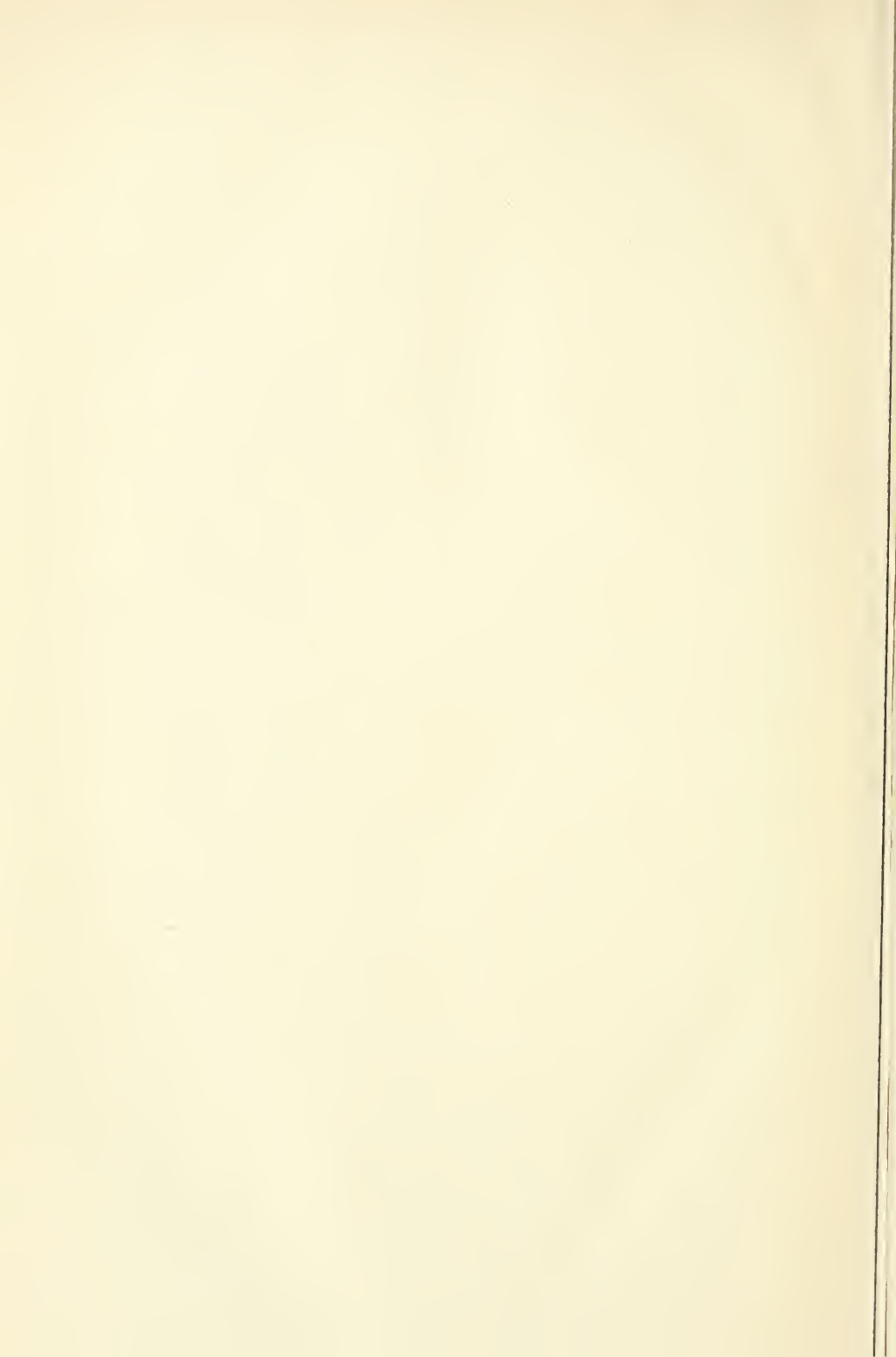
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