

LAWS

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ORDINANCES,

FOR THE GOVERNMENT OF THE

CITY OF WHEELING,

W. Va.
Coll.

WEST VIRGINIA.

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ACTS
OF THE
GENERAL ASSEMBLY OF VIRGINIA,
RELATING TO
THE TOWN OF WHEELING.

AN ACT to establish a town on the land of Ebenezer
Zane, in the county of Ohio.

(Passed December 25th, 1795.)

1. *Be it enacted by the General Assembly,* That the land, ^{Wheeling, town} late the property of Ebenezer Zane, as the same is already ^{established.} laid off into lots and streets, in the county of Ohio, and on Ohio river, shall be established, a town by the name of Wheeling; and that John McIntyer, Andrew Woods, ^{Trustees ap-} Henry Smith, Archibald Woods, James Nelson, Robert ^{pointed.} Woods, Absalom Martin and William Waddle, gentlemen, shall be, and they are hereby constituted trustees thereof.
2. The trustees of said town, or a majority of them, ^{Trustees to set-} are hereby empowered to settle and determine all disputes ^{tle disputes as} concerning the bounds of the said lots. ^{to lots.}
3. So soon as the purchasers of lots in the said town ^{Rights of lot} shall have built thereon according to the conditions of ^{owners.} their respective deeds of conveyance, such purchasers shall then be entitled to and have and enjoy all the rights, privileges and immunities which the freeholders and inhabitants of other towns in this State, not incorporated, hold and enjoy.
4. In case of the death, resignation, or removal out of ^{Vacancies filled} the county of one or more of the trustees of the said town,

the vacancy thereby occasioned shall be supplied by the remaining trustees, and the person or persons so elected shall have the same power and authority as if he or they had been particularly named in this act.

Commencement 5. This act shall commence and be in force from and after the passing thereof.

AN ACT increasing the number and powers of the trustees
of the town of Wheeling.

(Passed December 23th, 1803.)

Additional
trustees.

Power of trus-
tees.

Rules and reg-
ulations.

Book of By-
laws, &c.

Clerk.

1. *Be it enacted by the General Assembly,* That in addition to the persons heretofore appointed trustees of the town of Wheeling, in the county of Ohio, George Knox, William Irvine, Thomas Evans, John Kerr, William McConnell, Joseph Caldwell, John White, and Frederick Beimer, gentlemen, shall be and are hereby constituted and appointed trustees of the said town, who shall have the like powers in all respects as are granted to the other trustees of the said town. The trustees of the said town, or a majority of them, shall, from time to time, as they shall see cause, assemble at some convenient place in the said town, and when so assembled, shall have power to make and establish such bye-laws, rules and regulations, not contrary to the laws and constitution of this State, or of the United States, as they may think necessary for protecting property in the said town against accidents by fire; to establish and regulate markets; to keep the streets and alleys in repair; to remove nuisances and obstructions therefrom at the expense of those who occasion them; to impose fines for violating any of the said rules and regulations, not exceeding five dollars for any offence to be recovered before any justice of the county of Ohio, and for preserving in all other respects good order in the said town. The said by-laws and other regulations shall be entered in a book or books to be kept for that purpose, to which the trustees making the same shall affix their names; and such book or books shall, at all times, be open to the inspection of any person requesting the same; and that the proceedings of the said trustees may be carefully entered and preserved, they are hereby authorized to appoint a clerk who shall be paid for his services out of the fines imposed by the said trustees.

2. Vacancies occasioned by the death, resignation or otherwise of any of the trustees hereby appointed, shall be supplied in the manner directed in like cases by the act establishing the said town, and the persons who may be elected shall have the same power and authority, as if they had been particularly named in this act.

3. This act shall commence and be in force from and after the passing thereof.

AN ACT incorporating the town of Wheeling, in the county of Ohio.

(Passed January 16th, 1806.)

SECTION 1. *Be it enacted by the General Assembly,* That it shall be lawful for the freeholders and housekeepers, who shall have been resident in the town of Wheeling, in the county of Ohio, three months next preceding an election, to meet at some convenient place in the said town annually, on the third Monday in March, and then and there nominate, and elect, by ballot, twelve fit and able men, being freeholders and inhabitants of the town, to serve as mayor, recorder, aldermen and common councilmen for the same; and the persons so elected shall, within one week after their election, proceed to choose by ballot, out of their own body, one mayor, one recorder and four aldermen, and the remaining six shall be common councilmen, whose several authorities, as mayor, recorder, aldermen and common councilmen, shall continue until the third Monday in March, in the year succeeding, and until others shall be qualified in their stead, and no longer, unless re-elected.

SEC. 2. That the mayor, recorder, aldermen and common councilmen, so elected, and their successors, shall be and are hereby made a body corporate and politic, by the name of the mayor and commonalty of the town of Wheeling, with capacity to purchase, receive and possess lands and tenements, goods and chattels, either in fee or in any lesser estate therein; and the same to give, grant, let, sell or assign again; and to plead and be impleaded, prosecute and defend all causes, complaints, actions real, personal or mixed, and to have one common seal, and perpetual succession.

SEC. 3. That the person who shall first be elected mayor or of the said town shall, within one week after his election, take an oath, or solemn affirmation, before a justice

of the peace for the said county of Ohio, for the due and faithful execution of his office; and every succeeding mayor shall be qualified to his office before the mayor for the time being; and every recorder, alderman and common councilman shall take the oath, or make the like affirmation with respect to his office, before the mayor for the time being.

Mayor, &c, ex-officio Justices.

SEC. 4. *And be it enacted*, That the mayor, recorder and aldermen for the time being are hereby declared and constituted justices of the peace within the limits of the said town, which limits shall be so extended as to include all lots, streets, alleys and public squares at any time heretofore laid out by Ebenezer or Jonathan Zane, within and adjoining the boundaries of the said town as formerly established, and to the bank and whole surface of the Ohio river adjacent thereto: *Provided, nevertheless*, That neither the mayor, nor recorder, [nor any] alderman, shall sit as justices of the county of Ohio in the court thereof, or execute any of the powers belonging to justices of the peace, except such as may be lawfully executed by one justice alone.

Special powers.

SEC. 5. *And be it further enacted*, That the mayor and commonalty shall have power and authority to pass by-laws for establishing markets, and for regulating the same; for establishing an assize of bread and other things, and for enforcing the same; for laying out the streets, walks and alleys of the said town, and for improving the same; for preventing accidents by fire; for licensing ordinaries and fixing their rates; for erecting school houses and other public buildings necessary for the said town; for preventing and punishing the practices of firing guns, and running horses, mares, mules and geldings therein; and such other by-laws, rules and regulations, not inconsistent with the constitution and laws of this Commonwealth, or of the United States, as they shall deem necessary for the order of [and] good government of the said town, and to enforce the execution of all such by-laws, rules and regulations, by reasonable penalties, not exceeding, for one offense, the sum of ten dollars, to be recovered with costs, before any justice of the peace of said county, at the suit of the mayor and commonalty of the [town] aforesaid, and by them to be applied in aid of the taxes by the said mayor and commonalty to be imposed upon said town.

Penalties.

Annual taxes.

SEC. 6. *And be it further enacted*, That the said mayor and commonalty shall have power to assess an annual tax within the said town for the purpose before mentioned, not exceeding in any year the sum of fifty cents on ev-

ery tithable, and fifty cents on every hundred dollars value of taxable property therein. And the said mayor, recorder and aldermen, or any four or more of them shall have power to appoint a collector of such taxes, who shall give the same, the said mayor and commonalty for the time being and their successors, such bond and security for the collection and payment thereof as are by law required of the collectors of the county levies, and shall have like authority in making his collections, and the like compensation for his services therein, as collectors of the county levies by law have and are entitled to; and he and his securities, his and their executors and administrators, shall be subject to such proceedings, by motion or otherwise, before the court of the said county, for enforcing payment of such taxes, at the suit of the mayor and commonalty or other persons entitled, as collectors of county levies are by law subject to, for enforcing the payment of the levies by them collected. Collector.

SEC. 7. *And be it further enacted,* That the said mayor, recorder and aldermen, or any four or more of them, shall have power to appoint a sergeant of the said town yearly, who shall have the powers of a constable as to the execution and return of all process, to be issued by either the mayor, recorder or aldermen when acting as justices of the peace within the limits aforesaid, and to be entitled to the same fees as are or shall be allowed by law to constables for similar services; and shall give the like bond and security as constables are by law required to give; and for any neglect or misbehavior in his office, he and his securities shall be subject to such proceedings as constables are by law subject to. Sergeant.

SEC. 8. *And be it further enacted,* That whenever, after the expiration of the present sheriffalty of the said county, there shall not be residing in the said town a sheriff or his deputy duly qualified, then, and in such case, upon giving, before the court of the said county, such bond and security as is by law required of a sheriff for the execution of his office, such town sergeant shall have, within the limits of the town aforesaid, and everywhere upon the Ohio river, within the said county, concurrent authority with the sheriff of the said county in the service and return of all attachments, writs original and judicial to the said sheriff directed, and shall be entitled to the same fees as are or shall be allowed to sheriffs for similar services; and for every neglect or misbehavior therein, he and his securities, his and their executors and administrators, shall be subject to such proceedings, by motion or otherwise, as Sergeant's authority.

ACTS OF THE GENERAL ASSEMBLY OF VIRGINIA.

sheriffs by law [are] or shall be subject to: *Provided; nevertheless,* That such power shall only be exercised by the said town sergeant until there shall be residing within the said town a sheriff or his deputy duly qualified: *And provided also,* That all process against persons inhabiting within said town shall be executed by the sheriff or his deputy.

Misconduct, removal therefor.

SEC. 9. And in case of misconduct in the office of mayor, recorder or aldermen, common councilmen, or either of them, the others, being seven at least, shall have power to remove the offender; and as to all other officers, the power first appointing shall or may at pleasure revoke.

Vacancy.

This section repealed Feb. 16th, 1829.

SEC. 10. And in case of vacancy in the office of mayor, recorder, alderman or common councilmen, the vacancy shall be filled up in the following manner: The recorder shall succeed the mayor; the oldest alderman succeed the recorder, and so on according to priority, to be reckoned by the number of votes at the last election. And if a vacancy shall happen among the common councilmen, his place shall be filled up from the body of the freeholders within the town, by ballot of the mayor, recorder, aldermen and common councilmen.

Meeting summoned.

This section repealed Feb. 16th, 1829.

SEC. 11. *And be it further enacted,* That the mayor, recorder and [any] two of the aldermen shall have power, so often as they find occasion, to summon a common council of the said town, which shall consist of the mayor, recorder and two aldermen, and four common councilmen, at least; that no law, order or regulation shall be binding and valid, nor shall the same be revoked or altered, unless seven members concur therein.

Commencement

SEC. 12. This act shall commence and be in force from and after the passing thereof.

AN ACT for including certain lands within the town of Wheeling.

(Passed December 30th, 1806.)

Addition to town.

SECTION 1. *Be it enacted by the General Assembly,* That two certain strips or pieces of land, one belonging to Ebenezer Zane, and the other to James Patton, lying and situated between that part of the town of Wheeling, which was originally established, and the part added thereto, shall be and are hereby included within the limits and

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made a part of the said town of Wheeling, in like manner as if the same had been originally established a part of said town; and the owners or proprietors thereof shall have the same privileges and be subject to the same rules and regulations as are provided in the case of owners in other parts of the said town.

2. This act shall be in force from the passage thereof.

AN ACT concerning the town of Wheeling, in Ohio county.

(Passed January 29th, 1824.)

1. *Be it enacted by the General Assembly,* That the county court of Ohio shall, at their next April term, or at some subsequent term thereafter, appoint five commissioners, any three of whom may act, whose duty it shall be to ascertain, by actual survey, the true divisions, metes and bounds of all such streets, walks, alleys and lots in the said town of Wheeling, as by an order of the mayor and commonalty they shall be directed to survey and mark, and shall make, or cause to be made, a correct plat of each survey so made, and the same shall sign with their own proper hands and seals, and lodge in the clerk's office of the court of Ohio county, there to be recorded; which survey and return, so duly made and recorded, shall, in all future litigations concerning such boundaries, streets, walks, alleys and lots, be deemed, held and taken as full evidence and conclusive between the parties, from and after the first day of April, in the year eighteen hundred and thirty-five: *Provided,* That infants, femes covert, persons non compos mentis, and those without the United States, shall have five years after such disability is removed, within which they may contest such survey and return.

Survey to be made.

Plat to be made

Plat and survey to be evidence.

2. *Be it further enacted,* That it shall be lawful for the mayor and commonalty of the town of Wheeling to remove or abate nuisances, or cause the same to be done; to make such rules and regulations as may be deemed by them necessary for that purpose, and specially for preventing hogs from running at large in the streets of said town.

Nuisances abated.

Hogs.

3. *Be it further enacted,* That the mayor and commonalty of the town of Wheeling be, and they are hereby, authorized to make such allowance to the commissioners who may be appointed by virtue of the first section of this act, and to the clerk for recording the survey and return,

Compensation for survey.

as required by the first section of this act, as they may deem just and proper; and the said mayor and commonalty are hereby empowered and required to lay such tax on the houses and lots within the town of Wheeling as may be necessary to pay such allowance.

Commencement 4. This act shall be in force from and after the passage thereof.

AN ACT to amend the act entitled "an act to incorporate the town of Wheeling, in the county of Ohio."

(Passed January 21st, 1825.)

Taxes to be
liens.

1. *Be it enacted by the General Assembly,* That all arrears of taxes assessed upon taxable property in the town of Wheeling by the mayor and commonalty shall be and remain a lien thereon, until the same be fully paid off and discharged to the collector or other person duly authorized to collect or receive the same; and every owner or owners of any taxable property on which arrears of taxes shall so remain due and unpaid, shall be chargeable with the same, and liable to the payment thereof in the same manner as he or they may be for the payment of other taxes of said town.

Distrain for
taxes.

2. The collector of the said town of Wheeling, forever hereafter, in the collection of the taxes duly assessed, and of all arrears of taxes, shall have full power and authority within the said town, to distrain any personal estate belonging to the person or persons to whom the said taxes or arrears of taxes shall be charged or chargeable; and where the taxes or arrears of taxes due upon any taxable property within the said town, shall not be paid by the person or persons to whom the same shall be charged or chargeable, at the time the same shall be due and payable, the said collector shall have full power and authority to distrain any personal estate on the premises, belonging to any tenant or tenants, or other person or persons in the possession or occupancy thereof, notwithstanding the same may be included in any deed, deed of trust, mortgage, bill of sale or other writing whatsoever: *Provided, however,* That the sale of any personal property distrained as aforesaid, shall convey only such title as the owner or occupier of the premises held in such personal property. And where taxes or arrears of taxes shall be so paid by any tenant or tenants in the possession or occupancy of any such taxable property, either by distress or

Taxes paid by
tenants.

otherwise, he or they shall be entitled to a credit with the person or persons to whom he or they may be tenant or tenants, for the full amount of all such taxes or arrears of taxes so paid by him or them.

3. This act shall commence and be in force from and after the passing thereof.

AN ACT authorizing the appointment of a measurer of lumber and a gauger of liquors in the town of Wheeling.

(Passed February 24th, 1827.)

1. *Be it enacted by the General Assembly,* That hereafter it shall be lawful for the mayor and commonalty of the town of Wheeling, in the county of Ohio, annually to appoint a measurer of lumber and a gauger of liquors within and for the said town of Wheeling, and to regulate and prescribe their duties, authority and emoluments, and the same from time to time to modify and alter by the enactment of suitable and proper by-laws: *Provided,* That the same be not contrary to the constitution and laws of the United States nor of this commonwealth.

Measurer of
lumber.
Gauger of
liquors.

2. This act shall commence and be in force from and after the passage thereof.

Commencement

AN ACT concerning appeals in cases arising under the by-laws of the town of Wheeling.

(Passed March 8th, 1827.)

1. *Be it enacted by the General Assembly,* That in all suits or prosecutions, arising under any by-law or ordinance, passed by the mayor and commonalty of the town of Wheeling, in the county of Ohio, where the constitutionality or validity of such by-law or ordinance shall be contested, appeals shall lie from the judgment of any justice of the peace for the said county of Ohio, or of the mayor, recorder, or any alderman of the said town of Wheeling, to the superior court of law for the said county of Ohio, without regard to the sum or amount in controversy; such appeals to be taken within the same time, and upon the same terms as are prescribed by law, for taking appeals from the judgments of justices of the peace, to the several county and corporation courts within this commonwealth; and the said superior court of law shall try and decide

Appeals from
decisions of
justices of the
peace, mayor,
&c. granted.
In what cases.

Upon what
terms appeals
may be taken
and when.

How to be tried
and decided.

Judgments,
how executed.

Commencement

such appeals in the same manner as the several county and corporation courts within this commonwealth are by law directed to try appeals from the judgments of justices of the peace; and judgments of the said superior court of law rendered upon such appeals shall be executed as other judgments of the said court are executed.

2. This act shall be in force from and after the passage thereof.

AN ACT concerning the town of Wheeling, in Ohio county.

(Passed March 9th, 1827.)

Preamble.

WHEREAS, It is represented to the General Assembly, that the town of Wheeling, in the county of Ohio, is rapidly increasing in population, wealth and trade, and that said town being situated on the bank of the Ohio river, at the point the Cumberland road touches the same, the citizens of said town, and strangers trading thither, experience great and growing inconvenience for the want of public landings, wharves and quays.

Wharves and
landings.

1. *Be it enacted by the General Assembly,* That the mayor and commonalty of the town of Wheeling, in Ohio county, shall be and they are hereby authorized to erect and establish public landings, wharves and quays, at any time and place, on the margins of the Ohio river and Wheeling creek adjoining said town; to keep in good repair, or annul and abate the same, as to them may seem necessary and proper: *Provided,* That the said mayor and commonalty shall have no power to establish any such public landings, wharves or quays, until they shall have acquired title to the land or lands necessary for the purpose, by purchase from the right owner or owners thereof; and all lands so acquired shall be held by them for the purposes aforesaid.

Power to make
regulations and
fix fees, &c.

2. *Be it further enacted,* That it shall be lawful for the mayor and commonalty of the town aforesaid to make and enforce, by reasonable penalties, not exceeding in any one case the sum of twenty dollars, all such by-laws, rules and regulations for the said public landings, wharves and quays, and shall establish such dues, rates or fees for wharfage and use of their works, and the same to alter and amend from time to time, to demand, enforce and receive, as they shall deem necessary and proper for the good government thereof, and for the keeping up of said

works; *provided*, such by-laws, rules and regulations be not contrary to the laws and constitution of this commonwealth, or of the United States; *and provided also*, that all the by-laws, rules and regulations, and all the dues, rates and fees for the use of said works shall be uniform for all the landings, wharves and quays; and the general assembly, in all time hereafter, shall have power to repeal, annul or alter all or any of the dues, rates or fees, for the use of the landings, wharves and quays made under the foregoing provisions of this act.

Regulations
and fees to be
uniform.

3. This act shall commence and be in force from and after the passing thereof.

Commencement

AN ACT establishing the towns of Middle Wheeling and South Wheeling, in the county of Ohio.

(Passed February 9th, 1828.)

WHEREAS, It is represented to the general assembly, by the petition of Richard Simms, Peter Yarnall and others, inhabitants of Ohio county, that it is desirable to establish the additions to the town of Wheeling as towns:

1. *Be it therefore enacted by the General Assembly*, That the several additions to the town of Wheeling, laid out by Noah Zane, Peter Yarnall and others, and by Michael Graham, on the north side of Wheeling creek, and by William Chapline and John Goff, on the south side of said creek, shall be and the same are hereby established as towns by the name of Middle Wheeling and South Wheeling, and that Peter Yarnall, Marcus Wilson, Mark Douglass, John Gilchrist, John Fawcett, Richard Simms, Henry Moore and Alexander Caldwell be, and they are hereby appointed trustees for the town of Middle Wheeling; and that William Chapline, John Goff, junior, Josiah Chapline, Joseph Caldwell and Levi Prescott be, and they are hereby appointed trustees for said town of South Wheeling.

Additions.

Middle Wheeling.

South Wheeling.

Trustees.

2. *Be it further enacted*, That the trustees of said towns, or a majority of them, shall be, and they are hereby empowered to make such bye-laws and ordinances for the regulation of the police, for the regular building of houses therein, as to them shall seem best, and the same to amend, alter or repeal, and enforce, and to settle and determine all disputes concerning the boundaries of lots, streets and alleys in said town. *Provided*, That such bye-laws and ordinances shall not be repugnant to, or inconsistent with the constitution and laws of the United States, or of this commonwealth.

Powers of trustees.

Surveys.

3. *Be it further enacted*, That the trustees of said towns, as soon as convenient, under their own superintendence, cause to be made full and complete surveys of said towns, and plats thereof, with such remarks and explanations as they may think proper, which plats, with the remarks and explanations so made, shall be produced to the county court of Ohio county; and if approved by the court, they shall order their clerk to enter the same of record, but if they be not approved, the court shall order the said trustees from time to time to make such other survey or surveys, and return plats thereof, until some one of each town be approved, which shall be recorded as aforesaid; and after such plats shall be so recorded any true copy thereof, attested by the clerk, shall be read as evidence in any controversy relating to the boundary of any lot, street or alley, in said towns, in the same manner and shall have the same effect, as if they were the originals.

Surveys to be recorded.

Evidence.

Trustees and directors.

4. *Be it further enacted*, That so much of the act entitled "An act to reduce into one act, all acts and parts of acts, concerning the office of trustees and directors of the several towns within this commonwealth, and for supplying vacancies in the same," as is of a public nature, shall be regarded as the law in relation to said towns of Middle Wheeling and South Wheeling, hereby established.

Commencement:

SEC. 5. This act shall be in force from and after the passage thereof.

AN ACT concerning Noah Zane.

(Passed January 13th, 1829.)

Wharf of Noah Zane.

1. *Be it enacted by the General Assembly*, That it shall be lawful for Noah Zane, his heirs and assigns, to erect, at his own expense, one or more wharves on his land binding on the Ohio river, and lying between that part of the town of Wheeling, in the county of Ohio, as originally laid out by Ebenezer Zane, and that subsequently laid off by the said Zane, south of the original town, of such dimensions as he may think proper, so that the same shall not obstruct or impair the free navigation of the said river.

Wharf fees.

SEC. 2. *Be it further enacted*, That the wharfage fees to be charged by said Noah Zane for the use of his wharves, shall be the same as may from time to time, be fixed by the mayor and commonalty of the town of Wheeling, for the use of the wharves belonging to the corporation, in pursuance of an act of the general assembly, passed March

the ninth, one thousand eight hundred and twenty-seven, entitled "An act concerning the town of Wheeling, in Ohio county."

3. This act shall be in force from the passing thereof. Commencement

AN ACT to amend the charter of the town of Wheeling.

(Passed February 16th, 1829.)

1. *Be it enacted by the General Assembly,* That the mayor and commonalty of the town of Wheeling, in the county of Ohio, shall have power and authority, on the application of three-fourths of the whole number of owners of the lots composing any square in the said town, to pass an ordinance prohibiting the erection of any building, or the addition to any building before erected more than ten feet high, unless the outer walls thereof shall be composed of brick or stone; and to provide for the removal of any building or addition to any building, which may be erected contrary to such ordinance. Control of erection of buildings

2. *And be it further enacted,* That the said mayor and commonalty shall have power and authority to pass by-laws for the purpose of taxing the owners or keepers of dogs, exhibitors of public shows of any description, to grant licenses to auctioneers, and pass by-laws for preventing hogs from running at large within the limits of the corporation. Power to tax or license. Prevent hogs from running at large.

3. *And be it further enacted,* That in case of any vacancy whatever happening in said corporate body, such vacancy shall be supplied from the body of the freeholders within the limits of the corporation, by ballot among the remaining members; and if the vacancy be in the office of mayor, recorder or alderman, then, after the election from the body of the freeholders as aforesaid, the said office shall be filled by a second ballot among all the members. Vacancies.

4. *And be it further enacted,* That the mayor, recorder and any two Aldermen, or in case of the absence of the mayor, the recorder and any three of the aldermen; in case of the absence of the recorder, the mayor and any three aldermen, and in case of the absence of both the mayor and recorder, then the four aldermen shall have power, so often as they find occasion to summon a common council of the said town, which shall consist of the mayor, recorder (when present) and two aldermen, and four com- Meetings.

xviii ACTS OF THE GENERAL ASSEMBLY OF VIRGINIA.

Who to preside, &c. Who to act as recorder.

mon councilmen at the least; the recorder in the absence of the mayor from the town, to preside as recorder during the meeting, and the oldest alderman, (or he who had the highest number of votes at the last election) in the absence of recorder, or a recorder *pro-tempore*, to be appointed by the meeting to act as recorder during the meeting; and in the absence of both mayor and recorder, then the oldest alderman, or any other alderman appointed by the meeting for that purpose, to preside as mayor, and the alderman next oldest, (or having the next highest number of votes) or any other for that purpose appointed by the meeting, to act as recorder during the meeting; and no law, order or regulation, shall be binding and valid, nor shall the same be altered or revoked, unless seven members concur therein.

Repeals sections 10 and 11, Act of January 16, 1806.

5. *And be it further enacted*, That the tenth and eleventh sections of the act entitled "An act incorporating the town of Wheeling, in the county of Ohio," passed the sixteenth day of January, eighteen hundred and six, shall be, and the same are hereby repealed.

Commencement

SEC. 6. This act shall be in force from its passage.

AN ACT to amend the laws for the election of officers of the corporation of Winchester, and for other purposes.

(Passed February 24th, 1831.)

Delinquents not to vote.

1. *Be it enacted*, That hereafter it shall not be lawful for any inhabitant of the corporation of Winchester, or of the town of Wheeling, to vote at any election for corporation officers of said corporations respectively, or for overseers of the poor for said corporation of Winchester, who shall have been returned delinquent in the payment of any taxes due to the said corporations respectively, from him, for the year preceding such election.

List of delinquents.

2. *Be it enacted*, That it shall be the duty of the common council of Winchester, and of the recorder for the town of Wheeling, to make out, as they may be required by their respective corporations, lists of such delinquents annually, preceding any such election, and to furnish the judges of election at each ward or place of voting with one of said lists, which list shall govern the judges of elections in excluding any person contained in said list from voting: *Provided, however*, That if any person who shall have been returned delinquent as aforesaid, shall present to the judge or judges of election, at his proper place of voting, the re-

Proviso.

ceipt of the sergeant or other collector, before the close of the polls, for the amount of the taxes due by him for such year preceding, such person shall be entitled to vote in the same manner as if he had not been returned delinquent.

* * * * *

5. *Be it enacted*, That the president and common council of Winchester, and the mayor and commonalty of the town of Wheeling, are hereby respectively authorized and empowered to regulate, by law or ordinance, all houses kept and used as public eating or drinking houses, or houses of refreshment, or as places of public resort, by requiring the owners or keepers, severally, first to obtain a license for the same from the court of the said corporation of Winchester, or from the said mayor and commonalty of Wheeling, which court or mayor and commonalty, respectively, is hereby empowered to grant the same to persons in their respective corporations, first having taken the character of such applicant into consideration; and for good cause shown, the said corporate authorities shall have power to revoke such license at any time by them respectively granted.

Power to regulate eating and drinking houses

6. *Be it enacted*, That the said president and common council of Winchester, and the said mayor and commonalty of Wheeling, shall have power, each in their respective corporate limits, to impose a tax, not exceeding twenty dollars, on the keeper or owner of every such eating or drinking house, or house of refreshment, or place of public resort within said corporations, and to enforce the collection of said tax in such manner as to them shall seem most advisable, and generally to enact such laws or ordinances for the regulation of such houses, and for the enforcement of the powers hereby conferred, as to them respectively shall seem necessary, within their respective corporations.

Power to impose taxes.

7. This act shall commence and be in force from and after its passage.

Commencement

AN ACT to authorize the mayor and commonalty of the town of Wheeling to borrow money and pledge their property and revenue for its payment.

(Passed January 27th, 1832.)

1. *Be it enacted by the General Assembly*, That it shall and may be lawful for the mayor and commonalty of the town of Wheeling, in the county of Ohio, and their suc-

Power to borrow money.

cessors at any time hereafter, when they shall deem it to be for the interest of the inhabitants of said corporation, to borrow money for the uses of said corporation and to pledge the funds, property and revenues of the said corporation as security for the payment of the principal and interest of the money so borrowed.

Commencement 2. This act shall commence and be in force from the passing thereof.

AN ACT to enlarge, define and establish the corporate boundaries and limits of the town of Wheeling, in the county of Ohio.

(Passed January 6th, 1886.)

Boundaries of town.

Be it enacted by the General Assembly, That all the lands, grounds, waters, water courses and territory contained within the following boundaries shall be included within the corporate limits of the town of Wheeling, and shall be deemed and taken as within the limits and made part of the said town in like manner as if the same had been originally established as part and parcel thereof, to-wit: Beginning on the Ohio river at the mouth of McKinley's run, on the lands of Joseph Caldwell, Esq.; from thence by a direct line to a cherry tree standing four rods north of said Caldwell's garden fence at the northeast corner of said garden; thence by a direct line to the mouth of Stone coal run, on the south side of Wheeling creek; thence up said creek according to its several meanders and including the same to the mouth of coal run on the lands of Daniel Steenrod, and on the north side of creek, it being the same run across which there is thrown a stone arched bridge on the National road near the foot of the dug hill; thence by a line due north till the same strike or intersect the run called Jonathan's gut, at or near the lands of Hugh Nichols; thence down the last mentioned run to the Ohio river; thence by a line crossing said river by a line at right angles with its course to the western or Ohio shore; thence down said shore according to the several meanders of the river, including the river and Zane's island, to a point opposite the mouth of McKinley's run, and from thence by a direct line to the place of beginning: *Provided, however,* That no part of the lands included within said boundaries, and now not laid out into lots, shall be subject to taxation by the corporate authorities of the said town, unless the same shall hereafter be laid out into lots; in which case

SUBSCRIBING FOR RAILROAD STOCK.

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the same shall be subject to taxation by the corporate authorities in like manner as real estate is now subject to taxation by said corporation within its limits: *Provided,* ^{Lots liable for taxation.} *nevertheless,* That where one-fourth of the lots in any square, or given number of lots lying adjacent one to the other and included within four streets or alleys, or sections of streets or alleys, of the now town or borough of Wheeling or its additions, or of any future additions thereto, on the lands within said bounds, have not been or shall not be sold by the original proprietor or proprietors, or his or her or their heirs or devisees, and remain unimproved, that then such unsold and unimproved lots shall not be taxed by the said corporate authorities: *Provided,* ^{Proviso.} That nothing herein contained shall be so construed as to give to the said corporate authorities of Wheeling any other than judicial jurisdiction on the Ohio river within the boundaries as herein extended. ^{Jurisdiction on Ohio river.}

2. This act shall commence and be in force from and after the passage thereof. ^{Commencement}

AN ACT to authorize the mayor and commonalty of the town of Wheeling to subscribe for stock of the Baltimore and Ohio Railroad Company.

(Passed January 6th, 1836.)

1. *Be it enacted by the General Assembly,* That it shall and may be lawful for the mayor and commonalty of the town of Wheeling to take and subscribe for twenty-five hundred shares of the capital stock of the Baltimore and Ohio railroad company. ^{May subscribe for B. & O. stock.}

2. This act shall be in force from and after the passage thereof. ^{Commencement}

ACTS
OF THE
GENERAL ASSEMBLY
OF
VIRGINIA,
AND OF THE
LEGISLATURE OF WEST VIRGINIA,
RELATING TO THE
CITY OF WHEELING.

AN ACT to incorporate the city of Wheeling, in Ohio
county.

(Passed March 11th, 1836.)

1. *Be it enacted by the General Assembly of Virginia,* City of Wheel-
That the inhabitants of so much of the county of Ohio as ing incorpor-
is within the bounds prescribed by the act of the general ated.
assembly, entitled "An act to enlarge, define and estab- See ante, pp.
lish the corporate bounds and limits of the town of Wheel- xx. and xxi.,
ing, in the county of Ohio," passed January the sixth, and seq. act of
eighteen hundred and thirty-six, as the bounds and limits Feb. 3, 1871.
thereof, and their successors shall be, and they are hereby
made a body politic and corporate, by the name and style
of "*The City of Wheeling,*" and as such, and by that name,
may contract and be contracted with, sue and be sued, General cor-
plead and be impleaded, answer and be answered unto, porate powers.
and may purchase, take, receive, hold and use goods and
chattels, lands and tenements, and choses in action, or any
interest, right or estate therein, either for the proper use
of the said city, or in trust for the benefit of any persons
or association therein; and the same may grant, sell, con-

vey, transfer and assign, let, pledge, mortgage, charge and encumber, in any case and in any manner in which it would be lawful for a private individual so to do; and may have and use a common seal, and alter and renew the same at pleasure; and generally shall have all the rights, franchises, capacities and powers appertaining to municipal corporations in this commonwealth.

Rights of former town vested in city.

2. All the real and personal estate, and all the funds, rights, titles, taxes, credits and claims, and rights of action of the mayor and commonalty of the town of Wheeling, and of the several additions to said town included within the bounds aforesaid, or which are held in trust, or have been appropriated for the use or benefit of the said mayor and commonalty, or of the inhabitants of said town, or of any of the said additions, shall be and the same are hereby transferred to and vested in the said city of Wheeling.

Trust estates of corporation vested in city.

3. All real and personal estate heretofore conveyed to the said mayor and commonalty in trust, or for the use, benefit or advantage of any persons or associations, shall be and the same is hereby transferred to and vested in the said city, to be held subject to all the trusts, conditions and qualifications to which it would have been subject in the possession of the said mayor and commonalty if this act had not been passed.

Contracts with corporation valid against city.

4. All contracts with, and all rights, claims and demands against the said mayor and commonalty, or the trustees of any of the said additions in their capacity as such, shall be good in law against the said city, the same as they would have been against the said mayor and commonalty, or said trustees, if this act had not been passed.

Right of suffrage.

Section 5 amended Dec. 19th, 1862.

5. At all elections which shall be held by the voters of said city for the corporate authorities thereof, the following persons shall be entitled to vote, viz: first, every white male citizen of the state of the age of twenty-one years or upwards, who, for at least one year preceding the election shall have been a housekeeper or the head of a family in said city; second, every person qualified to vote for members of the general assembly of the state, who shall have been a resident of said city for at least one year preceding the election; and third, every white male citizen of the state of the age of twenty-one years or upwards, who, at the time of the election, shall be the *bona fide* owner of any freehold estate within said city of the value of at least five hundred dollars: *Provided, always,* That no person, although in other respects duly qualified, shall be entitled

to vote at any such election if he shall have failed to pay any tax whatever, lawfully assessed or levied upon him for the benefit of said city during the year preceding the election.

6. On or before the first Monday of August next, and on such day in every subsequent year as the council shall appoint or ordain, there shall be elected in the manner hereinafter prescribed, a board of not less than twelve nor more than twenty-four members, which shall be called the council of the city of Wheeling.

Council how
composed and
when elected.
See seq. act of
Jan. 15th, 1863.

7. No person shall be eligible as a member of the council, unless he be a citizen of the state, and for at least six months preceding his election shall have been the owner of a freehold estate in said city of the value of at least five hundred dollars, and shall have resided in said city for at least one year previous to his election.

Qualifications
of members of
council.
See act of Mar
15th, 1863, § 5.

8. The council shall be the judge of the election and qualification of the members of their own body.

Council to
judge of elec-
tions.

9. No person elected as a member of the council shall be competent to act as such, until he shall have taken an oath or affirmation to perform the duties of his office honestly and to the best of his capacity. And if any person so elected shall not have taken such oath or affirmation within such time after his election as the council shall have by ordinance prescribed, he shall be considered as having vacated his office.

Oath of mem-
bers.

10. At all elections which shall be held for members of the council, the person or persons who shall receive the highest number of votes, if duly qualified, shall be considered as elected. And if two or more persons receive an equal number of votes, so that the proper number be not elected, the council or the members thereof actually elected, shall decide between the persons so tied.

Who to decide
elections.

11. The members of the council shall hold their offices until their successors are duly elected and qualified. And if from any cause any election for members of the council shall not be held at the proper time for holding the same, it shall be lawful, and it shall be the duty of the council to cause such election to be held as soon as practicable thereafter.

Term of office
of members of
council.

12. The said city shall be divided into not less than four nor more than eight wards, and the representation of each ward in the council shall be as nearly as practicable in proportion to the number of free white persons residing therein; and the members from each ward shall be elected

City divided in-
to wards.
Apportionment
of representa-
tion.

Voters to reside in wards. Exception. Amended, act of Mar. 24th, 1882, § 12, and Mar. 12th, 1891, § 12. See seq. act of May 15, 1852, and act of Jan. 14th, 1853. Election for commissioners, when held.

How superintended. Duty of commissioners.

Who to decide their election.

Power to supply vacancies in their body. Their oath.

Elections for council, how fixed. See act of Mar. 3d, 1870, § 14, amended Mar. 24th, 1882.

by the voters of said city, who shall at the time of the election be actual residents of such ward, except that freeholders and leaseholders qualified as voters of said city, shall be entitled to vote in any one ward in which the freehold or leasehold estate in right whereof they vote is situated.

13. An election shall be held at the court house of Ohio county on the fourth Monday of April next, under the superintendence of any two members of the mayor and commonalty of the town of Wheeling, for the election by the voters of said city of eleven commissioners, who shall be residents and freeholders therein, and whose duty it shall be, at the expense of said city, to divide the same into wards, and to cause an enumeration to be made of the number of white persons residing in each ward, and to determine the number of members of which the council shall consist, (subject to the limitation prescribed in the sixth section of this act,) and to apportion the said number to the several wards according to the principle of representation herein before fixed. It shall further be the duty of said commissioners to appoint the place or places in said city, and the time at which the first election for members of the council shall be held, and to give at least ten days notice thereof in some one or more of the newspapers printed in said city, and to superintend and act as judges of said election, or to appoint the necessary officers and judges for that purpose. If at the election for said commissioners two or more persons shall receive an equal number of votes, so that the proper number be not elected, the commissioners actually elected shall decide between the persons so tied. Said commissioners, or such of them as remain, shall have power to fill any vacancy occurring in their own body. Before proceeding to act, they shall severally take an oath or affirmation to perform their duties honestly and fairly, regarding only the general interests of the city of Wheeling; and if any of them shall not have taken such oath or affirmation within five days after being notified of their election, they shall be considered as having vacated their offices. A majority of the whole number concurring shall be competent to do any act which they are hereby authorized or required to do.

14. All subsequent elections for members of the council shall be held at such place or places in said city, under the superintendence of such persons, and subject to such regulations, not inconsistent with this act and the laws of the state, as the council shall from time to time appoint or ordain.

15. Any person in other respects duly qualified, may be elected a member of the council from any ward, although not a resident thereof.

§ 15 amended Mar. 24th, 1882, § 15. Members of council may reside in any part of city.

16. If any vacancy shall happen in the council, the remaining members thereof shall, as soon thereafter as practicable, fill the same by the appointment of some qualified person, who shall be a resident of the ward in the representation from which such vacancy shall have occurred.

See act of Jan. 15th, 1868, § 5. Vacancies in council, how supplied.

17. The council shall have authority, at any time, to remove any member of their own body, provided two-thirds of all the members of which the council shall then consist, concur in such removal.

Power to remove members of council.

18. The council shall once at least in every five years, cause other enumerations to be made of the number of white persons residing in the several wards of said city; and having fixed the number of members of which their board shall thereafter consist, (within the limitation prescribed in the sixth section of this act) they shall re-apportion the said number among the several wards, according to the principle of representation hereinbefore fixed.

§ 18 amended Mar. 24th, 1882, § 18. Mar. 12th, 1891, § 18. Census of city, when and how taken.

Re-apportionment of representation.

19. The council shall have authority, at any time, to alter the boundaries between any of the wards, or to divide or consolidate any of the wards, subject to the limitation prescribed in the twelfth section of this act; but in such case they shall re-apportion the number of members of the council, so as to give to the wards so altered or created, their proper representation.

Power to change or consolidate wards.

20. The meetings of the council shall be held at such places in the said city, and at such times as they shall from time to time ordain or appoint; but it shall be lawful for the council, by ordinance, to vest in any officer of said city, or in any member or members of their own body, the authority to call special meetings.

Meetings of council, where and when held. Special meetings.

21. The council shall, by ordinance, prescribe the mode in which notice of their meetings shall be given.

Notice of meetings.

22. No business shall be transacted in the council unless a majority of all the members of which it shall then consist be present; except that a less number may compel the attendance of absent members, under such reasonable penalties as they may think fit to impose.

Number of members required for business.

23. All questions put, except in such matters as are herein otherwise expressly provided for, shall be decided by a majority of the members present.

Questions before council, how decided.

xxviii ACTS OF THE GENERAL ASSEMBLY OF VIRGINIA.

§ 24 amended Feb. 20th, 1877. Appropriations of money, how made. Ordinances, how passed. 24. No money shall be appropriated by the council, no contract on behalf of said city entered into or authorized, nor shall any ordinance be passed, unless two-thirds of the members present when the question is put, shall concur therein; or, unless the same be concurred in, at two successive meetings of the council, held on different days, by a majority of the members present at each of said meetings.

Compensation to council. 25. The council shall be authorized to grant, by ordinance, such compensation to the members of their own body as shall be approved of by not less than two-thirds of the members elected: *Provided*, That such compensation shall not exceed the sum of two dollars to each member for every meeting of the council which he shall attend.

Power to pass rules and appoint officers. 26. The council shall have authority to adopt such rules, and to appoint such officers and clerks as they may deem proper, for the regulation of their proceedings, and for the convenient transaction of their business.

§ 27 amended Mar. 24, 1882. Journal. Vote recorded. 27. The council shall keep a journal of their proceedings, which shall at all times be open to the inspection of any voter of said city; and at the request of one-fifth of the members present, the ayes and noes on any question put, shall be taken and entered in the journal.

Corporate powers vested in council. Estate, &c. under their care. 28. All the corporate powers, capacities and jurisdiction of said city shall be vested in and exercised by the council, unless otherwise expressly enacted. And all the real and personal estate, and the funds, revenues, claims, rights, titles and privileges of said city shall be under the care, management, control and disposition of the council.

§ 29 amended Mar. 8th, 1879. Power to pass ordinances. How enforced. 29. The council shall have authority to pass all ordinances (not repugnant to the constitution and laws of the United States, or of this state,) which shall be necessary or proper to carry into full effect any power, authority, capacity or jurisdiction which is or shall be granted to or vested in the said city, or in the council, or any officer of said city. And to enforce any or all of their ordinances by reasonable fines and penalties, and by imprisoning the offender or offenders, and by compelling them to labour, without compensation, at any of the public works or improvements undertaken or to be undertaken by said city; or by any or all of the said modes: *Provided, however*, That no person shall be imprisoned or compelled to labour as aforesaid, more than thirty days for any one offense.

Powers, rights, &c. of former town vested in council. 30. The council shall have and may exercise all the powers, franchises and immunities, rights and privileges

which were conferred upon, or belonged or appertained to the mayor and commonalty of the town of Wheeling, by virtue of any act or acts of the general assembly of this state heretofore passed.

31. The council shall have authority to provide by ordinance for the appointment of such officers as shall be necessary or proper to carry into full effect any authority, power, capacity or jurisdiction which is or shall be vested in the said city, or in the council, or in the mayor or aldermen thereof; to grant to the officers so appointed the powers necessary or proper for the purposes above mentioned; to define their duties; to fix their terms of office; to allow them reasonable fees and compensation and to require and take of all or any of them such bonds, obligations or other writings as they shall deem necessary or proper to ensure the proper performance of their several duties. All officers so appointed may be removed from office at the pleasure of the council, and unless their terms of office be otherwise fixed by ordinance, they shall be considered as holding their respective offices at the pleasure of the council.

See seq. act of May 28th, 1852, act of Mar. 3d, 1870, § 3, and act of Mar. 25th 1882. To provide for appointment of officers. Define their powers, duties, pay, &c.

Removal of officers.

32. All bonds, obligations, or other writings, taken in pursuance of the preceding section shall be made payable to the city of Wheeling; and the respective persons, their heirs, executors and administrators bound thereby, shall be subject to the same proceedings on the said bonds, obligations or other writings for enforcing the conditions and terms thereof, by motion or otherwise, before any court of record whose sessions are or shall be held in said city, that collectors of the county levies and their securities are or shall be subject to on their bonds, for enforcing the payment of county levies.

Bonds, &c. made payable to city.

Proceedings thereon.

33. The council shall have authority to levy and collect an annual tax on the real estate and titheables in said city: *Provided, however,* That such tax shall not in any year exceed the sum of fifty cents on each titheable, and fifty cents on every hundred dollars of the value of said real estate. And for the purpose of ascertaining such value, the council shall annually appoint one assessor from each ward, which assessors shall be freeholders of said city, and shall be sworn impartially and faithfully to make said appraisement: *And provided further,* That the lands within the bounds aforesaid, not now laid out into lots, shall not be subject to taxation by the corporate authorities of said city until the same shall be hereafter laid out into lots, when they shall be subject to taxation by the said corporate authorities: *And provided further,* That

§ 33 amended by act of Mar. 1st, 1854, § 1. Feb. 20th, 1858. Feb. 18th, 1862. Feb. 24th, 1866. Mar. 4th, 1868. Mar. 24th, 1873, and see act of Feb. 26, 1867. Mar. 3d, 1870, and act of Mar. 14th, 1881. Power of taxation on real estate and titheables. Assessors to be appointed. Exemption from taxation.

As to tax on personal property. See act of Feb. 28th, 1865.

while as much as one-fourth of the lots in any square of the present town of Wheeling and its additions, or of any future additions on the lands within said bounds, shall not have been sold by the original proprietor or proprietors, or his heirs or devisees, and shall remain unimproved, then such unsold and unimproved lots of such proprietor or proprietors, his heirs or devisees, in such square, shall not be taxed by the said corporate authorities; but improvements by mere enclosures for agricultural purposes shall not be considered as improvements within the meaning of this section; and a square shall mean any given number of lots lying together, and bounded by streets and alleys, or by streets and alleys and the bounds aforesaid of said city, or additions or parts of said town.

Regulations of auctions. Auctioneer's licenses.

34. The council shall have authority to regulate sales at auction within said city, and to levy and collect taxes upon such sales; to grant or refuse licenses to auctioneers, and to levy and collect taxes upon such licenses, in addition to any tax which is or shall be payable to the state: *Provided, however,* That nothing herein contained shall be construed to authorize any interference by the corporate authorities of said city with any sale made under the judgment or decree of any court or magistrate of this commonwealth, or the imposition of any tax thereon by the council.

Proviso.

§ 35 amended Mar. 4th, 1854, Feb. 10th, 1871, Mar. 14th, 1881. Licenses to taverns and houses of entertainment.

Tax on such licenses.

35. The council shall have exclusive authority within said city to grant or refuse licenses to the keepers of ordinaries, inns and taverns, houses of public or private entertainment, boarding houses, public eating houses, coffee-houses, places at which spirituous liquors shall be sold, and places of public amusement. They shall further have authority to regulate the manner in which such houses or places shall be kept, and to levy and collect taxes thereon, in addition to any tax which is or shall be payable on the same to the state.

Exhibitions and shows.

36. The council shall have authority within said city to regulate theatrical exhibitions, public shows, musical performances, and all shows, exhibitions and performances, to which admission is obtained by the payment of money or other reward, and to grant or refuse licenses therefor, and to levy and collect taxes on the same.

§ 37 amended Mar. 9, 1838, §§ 2 and 4. Regulations of hacks, carts, &c.

37. The council shall have authority within said city to grant or refuse licenses to the owners or keepers of hacks, carts, wagons, drays, and of every description of wheeled carriages kept in said city for hire; to levy and collect taxes thereon, and to subject the same to such reg-

ulations as the interest or convenience of the inhabitants of said city, in the opinion of the council, shall require. They shall further have authority to regulate, grant or refuse licenses to, and to levy and collect taxes from, hawkers, peddlars, and the venders of goods, wares and merchandize within said city.

Of hawkers,
peddlers and
venders of
goods.

38. The council shall have authority to subject any person or persons, who, without having obtained license therefor from the council, shall do any act, or follow any employment or business in said city, for which the council are or shall be authorized to grant licenses, to any fine or punishment which they are authorized to impose or inflict for the enforcement of their ordinances.

Fines for failing
to obtain li-
censes.

39. It shall be lawful for the council to establish and construct landings, wharves and docks, on any ground which does or shall belong to the said city, and to repair, alter or remove any landing, wharf or dock which has been or shall be so constructed; and to establish and collect rates and taxes for using in any manner the landings, wharves and docks belonging to said city. And they shall further have authority to pass and enforce such ordinances as shall be proper to keep the same in proper order and repair, to preserve peace and good order at the same, and to regulate the manner in which they shall be used.

Wharves, land-
ings, docks.

40. In case any person shall neglect or refuse to pay in whole or in part any tax lawfully levied upon him or her for the benefit of said city, it shall be lawful for the officer appointed to collect such tax, to take reasonable distress of any personal property in said city belonging to the said delinquent, or in which he or she shall have any right or interest, and to sell the said property, right or interest at public sale in said city (having given ten days notice of the time and place of sale by advertisement posted at some public place in said city), and out of the proceeds of such sale, after defraying all proper expenses, to pay to the said city the amount which shall be due on account of said tax, returning the balance, if any, to the owner of the property, right or interest so sold.

Collection of
taxes, how en-
forced.

41. In case any tax levied upon real estate for the benefit of said city, shall not be paid in full within thirty days after the same shall have become due, it shall be lawful for the officer appointed to collect such tax to take reasonable distress of any personal property belonging to the owner of said real estate, or in which such owner shall have any right or interest, or of any personal property on the premises taxed belonging to any person in the possession or

Tax on real es-
tate enforced.

occupancy thereof, or in which such person shall have any right or interest, and to sell such property, right or interest, and apply the proceeds thereof, in the manner prescribed in the last section. And such officer shall have power to distrain any personal estate which may be on the premises taxed, and the same to sell and apply as aforesaid, notwithstanding such personal estate may be included in any deed, deed of trust, mortgage, bill of sale or other writing.

See act of Mar. 3d, 1870, § 2. Taxes to be lien on real estate.

Property of purchasers liable for tax.

Tenants may pay tax and deduct it from rent.

Taxes to enure to city.

§ 45 amended Feb. 24th, 1891, and see act of Mar. 14th, 1881. Authority over streets and grounds.

See act of Feb. 10th, 1844, § 1. May 28th, 1852, § 4. How private property may be acquired for streets, &c.

42. All taxes assessed upon real estate for the benefit of said city, shall remain a lien thereon, bearing interest at the rate of ten per cent per annum, until the same be fully paid. And the personal property of every person to whom the said real estate shall come by descent or purchase, and of the person or persons in possession or occupancy thereof, shall be subject to distress and sale in the same manner and to the same effect, as if he, she or they were originally chargeable with said taxes.

43. In all cases in which any tax assessed upon real estate for the benefit of said city, shall be paid in whole or in part by the tenant, or out of his or her property, he or she shall be entitled to deduct the same out of the accruing rent, or to recover the amount so paid from the owner of said real estate, unless it shall have been otherwise specially agreed.

44. All taxes which the council are or shall be authorized to levy and collect, shall enure to the exclusive benefit of said city.

45. The council shall have authority within said city to lay out and cause to be opened any streets, walks, alleys, market grounds and public squares, or to extend or widen the same, first having obtained title to the ground necessary for that purpose, and to graduate any street, walk, alley, market ground or public square which is or shall be established within said city; to pave or otherwise improve the same; to cause them to be kept open and in good repair, and generally to ordain and enforce such regulations respecting the same or any of them, as shall be proper for the health, interest or convenience of the inhabitants of said city.

46. The council shall not take or use any private property for streets or alleys, market or burying grounds, or other public purpose, without making to the owner or owners thereof full and adequate compensation for the same. And in all cases where the said city cannot by agreement obtain title to the ground necessary for such

purposes, it shall be lawful for the said city to apply to the county court or circuit superior court of law and chancery for Ohio county for a writ, in the nature of a writ of *ad quod damnum*; which court shall thereupon direct the clerk thereof to issue such writ, directed to the sheriff of said county, commanding him to summon and impanel twelve fit, able and discreet freeholders of his county (residing out of said city and having no freehold therein, and who are in no wise related to any person claiming as proprietor of such ground or any part thereof, or any interest therein), to meet on or near said ground on a certain day to be named by said court, and inserted in said writ, of which notice shall be published by the sheriff at the expense of said city, in some newspaper printed in said city, at least twenty days previous to the time appointed for the execution of said writ; which freeholders shall be charged by the said sheriff, or some of his deputies, impartially and to the best of their skill and judgment, to view the lands or grounds which it is proposed to condemn and convert to public use, and say, all circumstances considered, to what damage it will be to the proprietor or proprietors thereof, or of any interest therein, if such grounds or lands be condemned and converted to such public use; and if the said inquest cannot be completed in one day, the sheriff or deputy shall adjourn the said jurors from day to day until the same shall be completed; which inquest, sealed by the jurors, together with the writ, shall be returned to said court, and entered among the records thereof. And the damages assessed as aforesaid, together with legal interest thereon from the term of the court to which said writ shall be returned executed, shall be paid by the said city to the person or persons who may be found to be the proprietor or proprietors of such land or ground, his, her or their personal representatives, or to the guardian, in case the owner is an infant; and upon such payment being made or tendered, it shall be lawful for said city, by its officers and servants, to enter upon, hold and possess such grounds or lands for the purposes for which it was proposed to condemn the same. If the owner or owners of such grounds or lands, or any part thereof, or interest therein, be out of the state or unknown, the said court shall appoint some one, under proper bonds, to receive for, and on behalf of, such proprietor or proprietors, such assessment. Where the grounds or lands so proposed to be condemned and converted to public uses, shall be under lease, or one or more shall have the fee in the same, and one or more a present or lesser estate in the same, said jury shall assess and fix the damages such re-

How obtained
where under
lease.

spective owners or persons having different interests or estates are respectively entitled to, all circumstances being considered as aforesaid.

§ 47 amended
Feb. 23, 1883.
Authority to
pave sidewalks
and to defray
expenses.

47. It shall be lawful for the council to cause the side walks along any street, alley or public square, or part thereof, to be properly paved, and to levy and collect a special tax to defray the expense of such paving of the owners of the ground fronting on the sidewalks so paved, by an assessment on each, proportioned to the number of feet front which he or she shall so own; and it shall be lawful for the officer appointed to collect such tax, to collect the same from the owners of such grounds, or from the persons in possession or occupancy thereof, or from any of them, by distress and sale, in the same manner in which taxes levied upon real estate for the benefit of said city are hereinbefore authorized to be collected; or to sell the said ground, or such part thereof, as he shall deem sufficient, and apply the proceeds of such sale, after defraying all proper expenses, to the payment of said taxes. And the council shall have authority, notwithstanding any thing hereinbefore contained exempting certain proprietors of real estate from the payment of city taxes thereon, to collect as aforesaid from the owners of any lots or squares fronting on any public street or alley of said city, a special tax, to defray the expense of making in front of said lots or squares a side walk or pavement, not exceeding four feet wide.

Markets estab-
lished and reg-
ulated.

48. The council shall have authority to establish markets in and for said city; to appoint the times and places for holding the same; to provide suitable buildings therefor, and to ordain and enforce such regulations respecting the said markets, as in their opinion the convenience or interest of the inhabitants of said city shall require. They shall further have authority to ordain and enforce such regulations as shall be necessary or proper to prevent forestalling and regrating.

Forestalling
and regrating
prevented.

Power to pre-
vent erection
of wooden
buildings.

49. It shall be lawful for the council, on the petition of the owner or owners of not less than two-thirds of the ground included in any square of said city, to prohibit the erection in such square of any building, or of any addition to any building, more than ten feet high, unless the outer walls thereof be made of brick and mortar, or stone and mortar, and to provide for the removal of any building or addition which shall be erected contrary to such prohibition, at the expense of the builder or builders, owner or owners thereof.

50. The council shall have authority to ordain and enforce such regulations as shall be necessary or proper to prevent accidents by fire within said city, or to secure the inhabitants thereof, as far as practicable, from injury thereby, and specially to provide for the establishment, organization, equipment and government of fire companies in said city; and to provide suitable magazines in or near said city for the storage of gunpowder, or other combustible and dangerous articles, and to ordain and enforce such regulations as they may deem necessary respecting the places and manner of keeping the same.

§ 50 amended
Mar. 8th, 1879,
Mar. 12th, 1881.
Regulations to
prevent fires.

Fire companies.

Magazines.

51. The council shall have authority to pass such ordinances as shall be necessary or proper to secure the inhabitants of said city against thieves, robbers, burglars and all other persons violating the public peace of said city; for the suppression of riots and gaming, and for the prevention and punishment of lewd, lascivious, indecent or disorderly conduct in said city.

§ 51 amended
Mar. 8th, 1879.
Jurisdiction
over crimes and
offences.

52. The council shall have authority to provide for the appointment, organization and regulation of a city watch; to prescribe the duties and to define the powers of the several officers, members and classes thereof, in such manner as will most effectually preserve the good order and peace of the said city, and secure the inhabitants thereof from personal violence, and their property from fires or other loss or injury.

City watch.

53. The council shall have authority to ordain and enforce such regulations within said city as shall be necessary or proper to secure the inhabitants thereof from contagious, infectious or other diseases; to establish, erect and regulate hospitals in or near said city; and to provide for the appointment and organization of a board of health for said city, invest it with such powers, and ordain and enforce such regulations for its government and support, and for the prompt and efficient performance of its duties, as shall be necessary or usual for the purposes aforesaid.

Regulations to
prevent con-
tagion, &c.

Hospitals.

Board of health

54. The council shall have authority to require and compel the abatement and removal of all nuisances within said city, at the expense of the person or persons causing the same, or of the owner or owners of the ground whereon the same shall be. They shall further have authority to prevent or regulate slaughter houses within said city, or the exercise of any offensive or unhealthy business, trade or employment therein, or to ordain and enforce such regulations respecting the same as the comfort, health or convenience of the inhabitants of said city shall require.

Nuisances
abated.

Slaughter
houses, &c. reg-
ulated.

xxxvi ACTS OF THE GENERAL ASSEMBLY OF VIRGINIA.

Stagnant water and offensive substances removed.

55. In case any ground in the said city shall be subject to be covered by stagnant water, or if the owner or owners, occupier or occupiers thereof shall permit any offensive or unwholesome substance to remain or accumulate thereon, it shall be lawful for the council to cause such ground to be filled up, raised or drained, or to cause such substances to be covered, or to be removed therefrom, and to collect the expense of so doing from the said owner or owners, occupier or occupiers, or any of them, by distress and sale, in the same manner in which taxes levied upon real estate for the benefit of said city are hereinbefore authorized to be collected: *Provided, however,* That reasonable notice shall be first given to the said owners or their agents. In case of non-resident owners, who have no agent in said city, such notice may be given by a publication for not less than four weeks in any newspaper printed in said city.

Notice to owner

Regulations to prevent animals going at large.

56. It shall be lawful for the council to prevent hogs, dogs and other animals from running at large in said city, or to subject the same to such regulations and taxes as they may deem proper.

Assize of bread.

57. The council shall have authority within said city to establish and enforce an assize of bread and other things; to provide proper burying grounds and grave yards in or near said city; to erect school houses and other public buildings necessary or proper for said city; to prevent the practice of firing guns, crackers or any combination of gunpowder or other combustible and dangerous materials therein, and to prevent the riding or driving of horses or other animals at an improper speed within the limits of said city; and generally they shall have authority to ordain and enforce all such by-laws, ordinances, rules and regulations, (not inconsistent with the constitution and laws of the United States or of this state,) as they shall deem necessary for the peace, good order, health or safety of said city, or of the people or property therein.

Grave yards.

Public buildings. Firing guns, &c. prohibited

Fast driving prevented.

By-laws generally.

City prison.

58. It shall be lawful for the council to cause to be erected within said city, a city prison, and to ordain and enforce all necessary or proper regulations respecting the same; and said prison may contain cells for solitary confinement, and such apartments as shall be necessary for the safe keeping and employment of all persons confined therein. And it shall further be lawful for the council to provide for the appointment of a proper officer or officers to have the care thereof, and to vest in the officer or officers so appointed in relation to the government and regulation of said prison, and the receipt, custody and dis-

Power of jailor.

charge of all persons who may be sentenced to confinement therein in pursuance of the city ordinances, any or all of the powers and authority and to subject him or them to any or all of the liabilities which, by the laws of this state, are or shall be vested in or imposed on the sheriffs or jailors of the several counties in relation to the county jails or persons imprisoned therein. But the circuit superior court of law and chancery for the county of Ohio shall have power to compel the corporate authorities of said city to keep the said jail in a clean and wholesome condition, and for such purpose to cause the same from time to time to be inspected by proper persons, and to exercise the same authority and control in relation thereto which the said court is or shall be authorized to exercise in respect to the county jail of said county. Until the said city prison shall be erected and prepared for the reception of prisoners, the said city shall be allowed the use of the county jail of Ohio county, for the confinement of all persons who shall be sentenced to imprisonment under the ordinances of said city, and all persons so confined, shall be under the charge and custody of the sheriff of said county, who shall receive, keep and discharge the same in such manner as shall be prescribed by the ordinances of said city, or otherwise by due course of law.

Power of circuit court over prison.

When county jail to be used for city prisoners.

59. It shall be lawful for the council, on behalf of the said city of Wheeling, to subscribe for and take not exceeding twenty-five hundred shares of the capital stock of the Baltimore and Ohio railroad company, and to levy and collect a special annual tax on the real estate within said city equal to the annual interest of any debt which may be contracted by said city on account of said subscription.

§ 59 amended by act of Mar. 9th, 1838, § 6. Subscription to stock of Baltimore and Ohio railroad.

60. It shall be lawful for the council to borrow money in the name and for the use of said city, and to convey, mortgage and pledge any of the public property and revenues of said city for the redemption of such loans and for the payment of the interest thereon.

§ 60 amended by act of Mar. 1st, 1854, § 3. Power to borrow money.

61. The council shall have authority to provide for the proper weighing or admeasurement of all hay, stone, coal, lumber, wood, boards and spirituous liquors and wines which shall be offered in said city for sale.

Weighing and measuring.

62. All moneys received or collected for the use of said city shall be paid into the city treasury, and shall not be drawn therefrom except as the council may order or prescribe.

Moneys to be paid into city treasury.

63. The council shall once at least in every year, cause to be published in some newspaper printed in said city a

Receipts, expenditures and debt to be annually published.

statement of the receipts and expenditures of said city for the past year, and of the debts due by the same.

Copies of ordinances &c. to be evidence in courts, &c.

64. All copies, purporting to be copies of the ordinances of said city or extracts from the journal of the council, which shall be printed by the authority of the council, or which shall be certified to be correct by the mayor of said city under the seal thereof, shall be received by all courts and magistrates of this state as *prima facie* evidence of the tenor of such ordinances, and of the acts and proceedings of the council as therein set forth.

§ 65 amended by act of Mar. 9th, 1838, § 1. Jan. 15th, 1863, §§ 6 and 9. Mar. 3d, 1870, § 2. Mar. 24th, 1882, § 1. Act of Mar. 25th, 1892, § 2. Mayor, how elected; his duties. His compensation.

65. The said council shall annually from their own body elect a mayor, whose duty it shall be to preside when present at the meetings of the council, and to keep the seal of the said city, and to do and perform all such other duties or services as the council may ordain, not inconsistent with this act, or the laws and constitution of the commonwealth or of the United States. And the mayor for his services may receive such sum from the city treasury as the council may ordain, and such fees or perquisites as the council may prescribe, the same to be taxed and collected as the ordinances of the city may direct. And when the office of mayor is vacant from refusal to serve, death, resignation, removal from the city or office, or other cause, the council shall fill such vacancy for the residue of the term from the members of their own body.

Aldermen.

66. The council may appoint for said city, from the citizens duly qualified to vote for members of the city council such number of aldermen as they may judge proper, not exceeding three for any one ward, but such aldermen shall not be members of the city council. And the mayor and aldermen for the time being are hereby declared and constituted justices of the peace within the limits of said city: *Provided, however,* That they shall not sit as justices of the county of Ohio in the court thereof, but they may take depositions, the acknowledgments of deeds with the privy examination of *feme covert*s; and within the limits of said city, they and each of them may do all such acts and perform all such functions as any justice of the peace for Ohio county can or could do, except as aforesaid, to sit on the bench as members of the county court of Ohio county; and for such services, they may receive such compensation from the city as the council may ordain, and such fees or perquisites as the council may prescribe, to be taxed and collected according to the by-laws and ordinances of said city. Vacancies in the office of aldermen, proceeding from any cause, may be filled by the council from the qualified citizens of the said city. The said aldermen shall be an-

Mayor and aldermen to be justices of the peace.

Their powers.

Their compensation.

Vacancies supplied.

How aldermen removed.

nually appointed, but may be removed from office by the council, two-thirds of the whole number concurring in such removal. In like manner may the mayor be removed from office, two-thirds of the whole number of the council concurring in the order for his removal from office.*

Removal of Mayor from office.

67. The council shall have authority to appoint a sergeant, and such constables for said city as they shall judge the public interests, good order, peace and safety of said city may require; and may allow such sergeant or any constable such deputy or deputies as they may think proper. No deputy, however, shall be appointed by his principal without the consent of the council, and the principal shall always be responsible for the acts of his deputy, in the same sense and extent that a high sheriff is liable for the acts of his deputies. Such deputies may, by order of the council, be appointed with the consent and approbation of the mayor. The said sergeant and constable or constables may hold their offices for such term as the council may ordain, not exceeding for any one term two years. Vacancies in said offices, and all other offices of said city, proceeding from death, resignation, removal from the city, refusal to act, or other cause, shall be filled by said council or by the mayor, if so authorized to do by the council. The sergeant and constables, or their deputy or deputies, may be removed from office by said council. After the first day of September next, the constables appointed by the county court of Ohio county, shall not within the limits of said city serve or execute any warrant for debt, detinue or trover, or execution, landlords' warrants, or other civil process, on any inhabitant of said city: *Provided, however,* That the constables in office on the said first day of September next, may go on within the limits of said city, and levy and complete any executions which they may on that day have on their hands. Any constable for Ohio county violating this provision, shall for each offence forfeit and pay a fine of twenty dollars, one-half to the city and the other half to the informer. But the said sergeant, or city constable or constables, his or their deputy or deputies, shall serve and execute all process that may be directed to them by any justice of the peace for Ohio county, against any person within the said city. All process which shall lawfully be directed to such sergeant, or constable or constables, may be executed by him or them, or his or their deputies, any where within the county of Ohio.

See act of May 28th, 1852, Feb. 25th, 1856, Mar. 3d, 1870, § 2, and see act of Mar. 24th, 1882, and Mar. 25th, 1882. Sergeant and constables to be appointed.

Term of office.

Vacancies supplied.

How removed.

Constable of county not to serve process in city.

Proviso.

Penalty.

City constable or sergeant, how and where to serve process

68. The council may by ordinance prescribe and define

Duties of sergeant and constables.

*The office of alderman was abolished by the act which established the municipal court of Wheeling, passed February 24th, 1865. See acts of 1865, p. 42, § 32. The act of February 24th, 1865, was repealed by act of February 22d, 1889. See acts, 1889, p. 116, § 19.

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Proviso. Further proviso *vided*, That nothing contained in this act shall be so construed as to authorize the taxation of the real estate lying and being situate on Zane's island, owned by the legal representatives, heirs or devisees of Daniel Zane, or the trustees of Ebenezer Zane's estate, or owned by Richard V. Whelan, so long as the same shall continue to be owned by them, their legal representatives, heirs or devisees, or held under said trust, otherwise than the same would be taxable if this act had not passed, except that any part of the same may be taxed when laid out into town lots.

Exception. And for the purpose of ascertaining such value the council shall, annually, appoint one assessor from each ward, which assessors shall be freeholders in said city, and shall be sworn impartially and faithfully to make such appraisement.

Assessors.

Commencement 2. This act shall be in force from its passage.

AN ACT

To amend the fifth section of an act entitled an act to incorporate the city of Wheeling, in Ohio county.

(Passed December 19th, 1892.)

Act of Mar. 11th, 1836, ante, pp. xxiv, and xxv, § 5. 1. *Be it enacted by the General Assembly*, That section fifth of an act entitled "An act to incorporate the city of Wheeling, in Ohio county, passed March 11th, 1836," be amended and re-enacted so as to read as follows, viz: At all elections which shall be held by voters of the said city, for the corporate authorities thereof, the following persons shall be entitled to vote, viz: First, every white male citizen of the state of the age of twenty-one years or upwards, who, for at least one year preceding the election, shall have been a housekeeper or the head of a family in said city; second, every person qualified to vote for members of the general assembly of the state, who shall have been a resident of said city for at least one year preceding the election; and third, every white male citizen of the state of the age of twenty-one years or upwards, who at the time of the election shall be the *bona fide* owner of any freehold estate within said city of the value of five hundred dollars: *Provided always*, That no person although in other respects qualified, shall be entitled to vote at any such election, if he shall fail to pay the capitation tax, lawfully assessed or levied upon him for the benefit of said city during the year preceding the election.*

Who entitled to vote at city elections for the corporate authorities.

Proviso.

Commencement 2. This act shall be in force from and after its passage.

*See amendments to constitution of the United States, article 14, § 1 and article 15, § 1.

COUNCIL TO CONSIST OF TWO BOARDS.

liii

AN ACT

To declare that the council of the city of Wheeling shall consist of two boards or branches.

(Passed January 15th, 1863.)

1. *Be it enacted by the General Assembly of Virginia, That* the council of the city of Wheeling, after the next election of officers for said city, shall consist of two separate and distinct boards, with the powers, capacities, and jurisdiction, now by law vested in the council of said city; one of which boards or bodies shall be called the first branch of the council of the city of Wheeling, and the other of which boards shall be called the second branch of the council of said city; and that no tax shall be levied, no appropriation of money be made, no contract entered into, nor any ordinance, by-law, or order be made or enacted without the consent of both of said branches of said city council. But each branch shall be the judge of the election and qualification of its own members, and shall have power to make all needful and proper rules and regulations for the government of its own body, and for the convenient direction and dispatch of its affairs and business.
Act of Mar. 11th, 1836, ante, p. xxv, § 6. Council to consist of two boards.
First branch.
Second branch.
When consent of both of said branches required.
Election and qualification of members.
Rules and regulations for the government of each branch.
2. *Be it further enacted, That* the board created by and mentioned in the sixth section of the act of the general assembly, entitled "An act to incorporate the city of Wheeling, in Ohio county," passed March 11th, 1836, shall constitute and be called the said second branch of the said city council, and shall be chosen and continue, as is now provided by law, with its existing capacity, power and functions, except in so far as the same are abridged, altered or modified by the provisions of this act.
Act of Mar. 11th, 1836, see ante, p. xxv, § 6. Which board to be called the second branch. How chosen and its powers, &c.
3. The first branch of said council shall consist of two members from each ward of the city, and shall be elected by the persons residing in the respective wards, qualified under existing laws to vote for mayor and members of council.
Act of Mar. 11th, 1836, ante, p. xxv, § 6. See seq. act of Mar. 3d, 1870. Of whom the first branch shall consist. How elected
4. At the first annual election for city officers after the passage of this act, there shall be elected by the qualified voters in each ward, two citizens thereof, to be members of the said first branch of the said city council. The member receiving in each ward the greater number of votes, and otherwise qualified, shall continue in office for two years, and until his successor is qualified; and the other member of each ward, and otherwise qualified, shall continue in office one year, and until his successor is qualified, and thereafter annually there shall be chosen by the quali-
See seq. act of Mar. 3d, 1870. Members of first branch of council, election of.
Term of office.

fied voters of each ward, one member of the first branch aforesaid for each ward, who shall continue in office for two years, and until his successor is qualified.

Act of Mar. 11th, 1836, ante, p. xxv., § 7; p. xxvii., § 16.
Who eligible as members of the first branch.
Power to fill vacancies.
Power of removal.
Proviso.

5. No person shall be eligible as a member of the first branch, unless he be a citizen of the state, and shall have resided in said city at least three years preceding his election, and is a resident of the ward for which he is chosen. And the first branch, as well as the said other branch, shall have power to fill vacancies occurring in their own body by the appointment of a qualified person; and also to remove a member for misbehavior, provided two-thirds of the whole number of such members shall concur in such removal.

Act of Mar. 11th, 1836, ante, p. xxxviii., § 65.
Act of Mar. 9th, 1838, ante, p. xlii., § 1.
Who to preside at meetings of the first branch
Chairman, pro tempore.
Salaries.

6. At all meetings of the first branch it shall be the duty of the mayor to preside, but in his absence the members present constituting a quorum may appoint from their own body a chairman, *pro tempore*, and they may adopt such rules and appoint such officers, including a clerk, as they may deem proper for the regulation of their proceedings and the convenient transaction of their business. But the salaries of the officers of each branch shall be ascertained and fixed by the council, as it is by this act created and defined.

Quorum.
Adjournment and compelling attendance of absent members

7. It shall require the presence of a majority of the whole number of each branch as fixed by law, to constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time, and compel the attendance of absent members in such way as the council may have provided.

President of second branch to preside when present.

8. The second branch of said council shall appoint one of its own members to preside over its deliberations, who shall be called the president of the second branch of the city council, and it shall be his duty when present, to preside at all meetings thereof, but in his absence, it may appoint one of its own members to preside as president *pro tempore*.

President pro tempore.

Act of Mar. 11th, 1836, ante, p. xxxviii., § 65.
Act of Mar. 9th, 1838, ante, pp. xlii. and xlii., § 1.
When president of second branch to be mayor.
Exception.
When the mayor is temporarily absent, who may be permitted to act as mayor.

9. When the office of mayor of the said city is vacant the president of the second branch shall be mayor of the city, until such vacancy is filled, except that he shall not preside at the meetings of the first branch; and when the mayor of the city is temporarily absent therefrom, the president of the second branch may, if the council shall so ordain, possess the powers and exercise the duties of mayor during the time the mayor may continue absent from the city.

10. All propositions involving an appropriation of

money, shall originate in the second branch of said council, but the first branch may propose or concur with amendments, as in other propositions. Propositions involving appropriations, where to originate.

11. The council of said city, as hereby created, shall have full power to make, pass and execute any ordinance which may be necessary or proper, to carry into effect the true intent and meaning of this act. Power of council in reference to this act.

12. This act shall be in force from and after its passage. Commencement

AN ACT

To confer upon the president of the second branch of the council of the city of Wheeling the power to administer oaths.

(Passed February 3d, 1863.)

1. *Be it enacted by the General Assembly of Virginia, That* the president of the second branch of the council of the city of Wheeling, for the time being, shall be, and he is hereby constituted a justice of the peace so far as administering oaths is concerned within the limits of the said city: *Provided, That* he shall not sit as a justice in the county court of Ohio county. President to administer oaths.

2. This act shall be in force from its passage. Commencement

AN ACT

To regulate the election of officers by the council of the city of Wheeling.

(Passed February 3d, 1863.)

1. *Be it enacted by the General Assembly of Virginia, That* all officers which now are, or hereafter may be required by acts of the legislature to be elected by the council of the city of Wheeling, shall be elected by joint ballot of the first and second branches of said council, a quorum of each branch being present, or in such other mode as shall be prescribed by the ordinances of said city. See act of Mar. 3d, 1870, § 2. Act of Mar. 24th, 1882, All officers to be elected by joint ballot.

2. This act shall be in force from its passage. Commencement

the several duties of the town sergeant and his deputies, and of the constable or constables, and his or their deputies; and the council may also define and prescribe what duties or services said officers shall not do or perform.

See act of
Jan. 15th, 1863,
§§ 6 and 8.
Who to preside
in council when
mayor absent.
Journal, how
signed and pre-
served.

69. When the mayor is not present, such member of the council shall preside in their meetings, as the majority of those present shall for such purpose appoint. And the council shall have power to ordain and prescribe how and by whom the journal of their proceedings, together with their by-laws, ordinances, rules or regulations, shall be signed and preserved.

See act of
Feb. 24th, 1865,
Feb. 22d, 1869,
§ 4.
Fines, penalties
and debts, how
recovered.

70. All fines and penalties accruing or arising under this act, or any by-law or ordinance, rule or regulation of said city, not exceeding twenty dollars, shall be recoverable in the name of said city before the mayor or any alderman thereof. So may any debt or demand not exceeding twenty dollars in favour of or against said city. And all fines and penalties accruing under this act, or the by-laws or ordinances of said city, exceeding twenty dollars, may be recovered in the name of said city before the mayor, he calling to his assistance to try the fact a jury of true and disinterested men, or the same may be recovered before any court of record for Ohio county in the name of said city; appellate proceedings, in case the same is prosecuted in the county court lying to the circuit superior court of law and chancery for Ohio county, in the same manner in behalf of the party aggrieved as in other cases: *And provided further*, That in all suits or prosecutions arising under the by-laws, ordinances, rules or regulations of said city, where the constitutionality or validity of such by-law, ordinance, rule or regulation shall be contested, appeals shall lie in behalf of the party aggrieved from the judgment of said mayor or aldermen to the said superior court, without regard to the sum or amount in controversy; such appeals to be taken within the same time and upon the same terms as are prescribed by law for taking appeals from the judgments of justices of the peace to the several county and corporation courts within this commonwealth, and the said superior court shall try and decide such appeals in the same manner as the several county and corporation courts within this commonwealth are by law directed to try appeals from the judgments of justices of the peace; and the judgments of said superior court rendered upon such appeals, shall be executed as other judgments of said court are executed. But the appeal shall be null and inoperative, until the appellant or his agent shall file with the clerk of said superior court an affidavit that he verily be-

Appellate pro-
ceedings.

lieves, or is informed by council practising in the superior and inferior courts of the state, that such by-law, ordinance, rule or regulation complained of, is unconstitutional or invalid; or where the appeal is at the instance of said city or any of its officers, or affidavit that the by-law, ordinance, rule or regulation in question, is valid and constitutional.*

71. All the acts of the general assembly concerning the town of Wheeling, and the mayor and commonalty thereof, which are repugnant to or inconsistent with the provisions of this act, shall be and the same are hereby repealed from and after the first meeting of the city council provided for by this act. But the mayor and commonalty of the town of Wheeling shall continue to have, enjoy and exercise all the powers, immunities, capacities, privileges and duties given, conferred or imposed upon them by the general assembly, till the close of the first meeting of the council provided for by this act; and all the acts and doings of the said mayor and commonalty, and their several officers, shall be binding and valid, to all intents and purposes, till the close of said first meeting.

Repealing clause.

Powers of former corporation, how long to exist.

72. All officers who shall be appointed or elected in pursuance of this act, or by virtue of any power or authority herein granted, shall, before entering on the duties of their offices, take the following oaths or affirmation. An oath or affirmation honestly, faithfully and diligently to perform the duties of their respective offices; an oath or affirmation to support the constitution of the United States; the oath or affirmation of fidelity to this commonwealth; and the oath or affirmation set forth in the third section of the act, passed March the first, eighteen hundred and thirty-one, entitled "an act to amend an act, entitled 'an act to suppress duelling.'"

Oaths of officers

73. This act shall be in force from and after the passage thereof.

Commencement

*Section 70 was, in effect, repealed by the act which established the municipal court of Wheeling, passed February 24th, 1865. See acts of 1865, p. 37. The act of February 24th, 1865, was repealed by the act establishing a police court in Wheeling, passed February 22d, 1869.

AN ACT

To amend the act entitled "An act to incorporate the city of Wheeling, in Ohio county."

(Passed March 9th, 1838.)

1. *Be it enacted by the General Assembly, That the mayor of the city of Wheeling, in the county of Ohio, shall here-*

Mar. 11th, 1836, sec ante, p. xxxviii., § 65.

§ 1 amended
Jan. 15th, 1863,
§§ 6 and 9,
Mar. 3d, 1870,
Mar. 24th, 1882,
§ 1,
Mar. 25th, 1882,
§ 2.
Elections.
Term of office.
Mayor's duties.

Compensation.

Vacancy.

Act of
Mar. 11th, 1836,
ante, pp. xxx.
and xxxi., § 37.
Licenses.

§ 3 repealed
Feb. 28th, 1865,
§ 2.
Licenses to
vendors of
goods.

Assessors to as-
certain values.

after be annually elected from amongst the citizens thereof qualified to act as common councilmen by the qualified voters thereof, on the same day of the general election held in and for said city, and shall hold the office for the term of one year, and until his successor shall be qualified. It shall be the duty of the mayor of said city to cause all the laws and ordinances thereof to be enforced, to keep the seal of the said city, and to perform all such other duties as the common council may ordain, not inconsistent with the laws and constitution of this commonwealth, or of the United States. He shall also preside at the meetings of the common council, but shall in no case be entitled to a vote in the deliberations of said body, except when there is a tie; he shall then give the casting vote; he shall also receive out of the treasury of said city such reasonable compensation and perquisites as the council may ordain, but in no case shall his salary and perquisites be increased or diminished during the time for which he shall then be elected. When the said office shall be vacant from refusal to serve, death, resignation, or any other cause, the common council shall have power to fill the vacancy for the residue of the term.

2. *Be it further enacted*, That the council shall have authority within said city to grant licenses to the owners and keepers of horses, hacks, carts, wagons, drays, and every description of wheeled carriages kept within the said city for hire; to levy and collect taxes thereon, and to subject the same to such regulations as the interest or convenience of the inhabitants of said city, in the opinion of the council, shall require.

3. *Be it further enacted*, That the said council shall have authority to levy and collect taxes from the vendors of goods, wares and merchandize within the said city: *provided always*, That the tax levied and collected from such vendor, shall not exceed in any one year, one-fourth of one per centum on the value of the stock of goods, wares and merchandize held by such vendor or vendors at the time of levying such tax. It shall be the duty of the assessors of said city, or any three of them, annually at the time of making the assessment of real estate and tithables in said city, to ascertain the value of the stock of goods, wares and merchandize held by every such vendor, and report the same to the council. In ascertaining the said value, the said assessors shall be authorized to require every such vendor to state the value of his or their stock of goods, wares and merchandize, under oath or affirmation, according to the best of their knowledge and belief.

4. *Be it further enacted*, That the council shall have authority to levy and collect taxes from commission and forwarding merchants within said city, provided the tax so levied and collected from each commission and forwarding merchant shall not exceed in any one year the sum of fifty dollars. The said council shall also have authority to grant licenses to, and to levy and collect taxes from hawkers and pedlars, within said city, and to subject the same to such regulations as the interest or convenience of the inhabitants of said city, in the opinion of the council, shall require.

Act of
Mar. 11th, 1836,
ante, pp. xxx.
and xxxi., § 37.
Tax on mer-
chants.

Hawkers and
peddlers.

5. *Be it further enacted*, That all parts of the act entitled "An act to incorporate the city of Wheeling, in Ohio county," passed March the eleventh, eighteen hundred and thirty-six, coming within the purview of this act, shall be, and the same are hereby repealed: *Provided, however*, That nothing herein contained shall be so construed as to extend to, or abridge any right or remedy which has, or may have, accrued before the passing of this act.

Repeal of parts
of act of 1836,
inconsistent.

6. *Be it further enacted*, That it shall be lawful for the common council of said city to take and subscribe for ten thousand shares of the capital stock of the Baltimore and Ohio railroad company, instead of twenty-five hundred shares heretofore authorized by law.

Act of
Mar. 11th, 1836,
ante, p. xxxvii.,
§ 50.

See act of
Mar. 16th, 1850,
seg. under title
"Railroads,"
Stock of B. &
O. R. R., sub-
scription au-
thorized.
Commencement

7. This act shall be in force from the passing thereof.

AN ACT

To establish a flour inspection in the city of Wheeling.

(Passed January 14th, 1841.)

1. *Be it enacted by the General Assembly*, That the common council of the city of Wheeling be and they are hereby authorized to establish an inspection of flour in the said city, and to pass all necessary laws and regulations for the management thereof: *Provided*, That the said power of inspection be confined to flour sold for consumption in the said city.

Inspection of
flour.

2. This act shall be in force from the passing thereof.

Commencement

AN ACT

To amend the act entitled "An act to incorporate the city of Wheeling, in Ohio county."

(Passed February 10th, 1844.)

1. *Be it enacted by the General Assembly of Virginia*, That hereafter it shall be lawful for the city council of the city

Act of
Mar. 11th, 1836,
ante, p. xxxii.,
§ 46.

of Wheeling, to take and use any lot or lots, parcel or parcels of ground, or any part thereof in said city, for streets, alleys, market or burying grounds, or for any other public purposes, upon making to the owner or owners thereof adequate compensation therefor. And in all cases when the said council cannot, by agreement, obtain title to such lot or lots, parcel or parcels of ground for such purposes, it shall be lawful for them to apply to the county court, or to the circuit superior court of law and chancery of Ohio county, for a writ in the nature of a writ of *ad quod damnum*; and either of said courts to which such application shall be made, shall thereupon direct the clerk thereof to issue such writ, directed to the sheriff of said county, commanding him to summon and impanel twelve discreet freeholders of said county, residing out of said city, and having no freehold therein, and who are in no wise related to any person claiming as proprietor of such lot or lots, parcel or parcels of ground, or any part thereof, or any interest therein, to meet on or near the same, on a certain day to be named by the court directing said writ to issue, and to be inserted therein, of which notice shall be published by said sheriff, at the expense of said city, in some newspaper published therein, for at least twenty days previous to the time appointed for the execution of said writ. And it shall be the duty of said sheriff to charge said freeholders, after they shall have assembled and viewed any such lot or lots, parcel or parcels of ground, to hear such proper evidence as the proprietor or proprietors of all or any part thereof, and as the said city council may offer, and to ascertain and find, according to the best of their judgment, what damage (all the circumstances considered) such proprietor or proprietors have sustained. And in the performance of this duty, said freeholders shall take into consideration the quantity and quality of the lot or lots, parcel or parcels of ground proposed to be condemned, and the value thereof, and all inconvenience which will result to the proprietor or proprietors thereof, or of any interest therein; and shall combine therewith a just regard to the advantages which such proprietor or proprietors will derive from the improvement or purpose for which said lot or lots, parcel or parcels of ground are proposed to be condemned. And if the said inquest cannot be completed in one day, the sheriff shall adjourn the said freeholders, from day to day, until the same shall be completed; which inquest sealed by the said freeholders, together with the writ, shall be returned to the court which directed the same to issue, and be entered amongst the records thereof. And the damages assessed as aforesaid, together with legal

See act of
May 28th, 1852,
seq. p. xlvii.,
§ 4.
Council author-
ized to take
ground for pub-
lic uses.

Writ of *ad quod*
damnum.

Value, how es-
timated by jury

Adjournment of
inquest and re-
turn.

Damages to be
paid by the city

interest thereon, from the term of the court to which said writ shall be returned executed, shall be paid by the said city to the person or persons who may be found to be the proprietor or proprietors of such lot or lots, parcel or parcels of ground, or any part thereof, or interest therein, his, her or their personal representatives, or to the guardian or guardians of any one or more of such persons, if he, she or they be infants; and upon such payment being made or tendered, it shall be lawful for the said city council, by its officers or servants, to enter upon, hold and possess such grounds or lands for the purpose or purposes for which it was proposed to condemn the same. If the owner or owners of such lot or lots, parcel or parcels of ground, or any part thereof, or interest therein, be out of the state, or unknown to the court before which said proceedings may be pending, such court shall appoint some one under proper bonds with good security, to receive for and on their behalf such assessment. Where the lot or lots, parcel or parcels of ground so proposed to be condemned and converted to public use, shall be under lease, or one or more shall have the fee therein, and one or more a present or lesser estate in the same, said freeholders shall assess and fix the damages such owners or persons having different interests or estates therein are respectively entitled to, all circumstances being considered as aforesaid.

How assessments shall be paid if non-residents or unknown.

Damages assessed where owners have different interests or estates.

2. *Be it further enacted*, That so much of the act entitled "An act to incorporate the city of Wheeling, in Ohio county," passed March the eleventh, eighteen hundred and thirty-six, as comes within the purview of this act, shall be and the same is hereby repealed.

Repealing part of act of Mar. 11th, 1836. See ante, p. xxxii., and seq. § 46.

3. This act shall be in force from the passing thereof.

Commencement

AN ACT

Laying off into wards those cities and towns, the white population of which exceeds five thousand, and establishing a separate place of voting in each.

(Passed May 15th, 1852.)

Section 3 of this act reads as follows :

3. Until otherwise provided, the city of Wheeling, shall, for the purposes of this act, continue to be laid off into five wards, having the boundaries and being designated by the numbers of the five wards now laid off for

§ 3 amended Jan. 14th, 1853, see seq. p. xlv. Wards for city of Wheeling.

Elections,
where held.

corporate purposes; and there shall be a separate place of voting in each ward as follows, to-wit: in the first, fourth and fifth wards, at the respective district public school houses therein; in the second ward, at the city hall, and in the third ward, at the court house.

AN ACT

To amend the act entitled an act laying off into wards those cities and towns the white population of which exceeds five thousand, and establishing a separate place of voting in each, passed May 15, 1852.

(Passed January 14th, 1853.)

Be it enacted by the General Assembly, That the third section of the act passed May the fifteenth, one thousand eight hundred and fifty-two, entitled an act laying off into wards those cities and towns the white population of which exceeds five thousand, and establishing a separate place of voting in each, is hereby amended and re-enacted so as to read as follows:

Act of
May 15th, 1852,
ante, pp. xlv.
and xlvii., § 3.
Wards.

Voting places.

3. The city of Wheeling, for the purposes of this act, shall be so laid off into wards that so much thereof as lies within the boundaries of any one of the districts which have been established for the election of justices of the peace shall be a separate ward, and the places of voting therein shall be such places therein as have been designated and established for elections by the commissioners appointed to lay off said districts.

Commencement

2. This act shall be in force from its passage.

AN ACT

To amend the act entitled "an act to incorporate the city of Wheeling, in Ohio county."

(Passed May 28th, 1852.)

Act of
Mar. 11th, 1836,
ante, p. xxix.,
§ 31.
§ 1 amended
Feb. 25th, 1856.
See seq. p. 1.

1. *Be it enacted by the General Assembly,* That the mayor and members of the council of the city of Wheeling, together with all the officers of said city, under the ordinances thereof, shall hereafter be annually elected from among the citizens thereof, qualified to vote for mayor and members of the council, on the same day of the gen-

eral election held in and for said city, and shall hold their several offices for the term of one year and until their successors are qualified: *Provided, nevertheless,* That the officers appertaining separately to the several wards shall be elected by the qualified voters of each ward: *And provided further,* That the council shall by ordinance prescribe the penalty and condition of the official bond to be given by each officer, and shall judge of the sufficiency of every such bond: *And provided further,* That any citizen of Ohio county shall be eligible to the office of sexton of said city.

See act of Mar. 1st, 1854, seq. p. xlviii., § 2. Mar. 3d, 1870, Mar. 25th, 1882. Officers elected Term. Ward officers. Bonds.

Sexton.

2. Any of the officers of said city may be removed from office by the council of said city, two-thirds of the whole number of the council of the city concurring in such removal.

Removals.

3. The council shall have authority to fill any and all vacancies occurring in any office of said city from among the citizens of said city qualified to vote for mayor and members of the council.

Vacancies, how filled.

4. The power given to the council of said city to condemn any private property for streets or alleys, market or burying grounds, or other public purposes, in the forty-sixth section of the act of the general assembly entitled "An act to incorporate the city of Wheeling in Ohio county," passed March eleventh, eighteen hundred and thirty-six, shall be construed to grant to said council the power in like manner to condemn any private property for the purpose of establishing and constructing landings, wharves and docks.

Mar. 11th, 1836, ante, p. xxxii., and seq. § 46. Feb. 10th, 1844, ante, p. xliii., and seq. § 1. Condemnation for wharves and landings.

5. If any person assessed with water rent for the use of the water from the water works of said city, under, by virtue and in pursuance of the ordinance of said city, shall fail, neglect or refuse to pay the same to the officer appointed to collect and receive the same, within thirty days after the same shall have become due and payable, the said officer shall have the same power and authority to collect the said water rents as are conferred upon sheriffs for the collection of the state and county taxes by the thirty-sixth chapter of the twelfth title of the code of Virginia, and all other laws in relation thereto.

Water rents, collection of.

6. All parts of the act entitled "An act to incorporate the city of Wheeling, in Ohio county," passed March eleventh, eighteen hundred and thirty-six, and of the act entitled "An act to amend the act entitled 'an act to incorporate the city of Wheeling, in Ohio county,'" passed March ninth, eighteen hundred and thirty-eight, coming within the purview of this act, shall be and the same are hereby

Acts of Mar. 11th, 1836, ante, p. xxiii., and seq. Mar. 9th, 1838, ante, p. xli., and seq. repealed in part.

repealed: *Provided, however,* That nothing herein contained shall be so construed to extend to or abridge any right or remedy which may have accrued before the passage of this act.

Commencement 7. This act shall be in force from its passage.

AN ACT

To amend the act passed March 11th, 1836, entitled an act to incorporate the city of Wheeling.

(Passed March 1st, 1854.)

1. *Be it enacted by the General Assembly,* That the thirty-third section of the act passed March eleventh, one thousand eight hundred and thirty-six, entitled an act to incorporate the city of Wheeling, in Ohio county, shall be and the same is hereby repealed, and that in lieu thereof the council of said city shall have authority to levy and collect an annual tax on all the real estate and tithables within the bounds of said city, without exception: *Provided,* That such tax shall not in any one year exceed the sum of fifty cents on each tithable, and fifty cents on every hundred dollars of the value of said real estate: *And provided, further,* That nothing contained in this act shall be construed to authorize the taxation of the real estate on Zane's island, owned by Daniel Zane, or the trustee of Ebenezer Zane's estate, so long as the same shall continue to be owned by them or their legal representatives, or held under said trust, otherwise than the same would be taxable if this act had not passed, except that any part of the same may be taxed when laid out into town lots. And for the purpose of ascertaining such value, the council shall annually appoint one assessor from each ward, which assessors shall be freeholders in said city, and shall be sworn impartially and faithfully to make such appraisalment.

Mar. 11th, 1836, ante, pp. xxix. and xxx., § 33. § 1 amended Feb. 20th, 1858, Feb. 13th, 1862, Feb. 24th, 1866, Feb. 26th, 1867, Mar. 4th, 1868, Mar. 24th, 1878 and see act of Mar. 3d, 1879, Mar. 14th, 1881. Power of taxation. Limit thereto.

Proviso as to Zane's island.

Assessors, how appointed.

Act of May 28th, 1852, ante, p. xivi. and seq., repealed in part

2. That so much of the act entitled an act to amend the act entitled an act to incorporate the city of Wheeling in Ohio county, passed May twenty-eighth, one thousand eight hundred and fifty-two, as comes within the purview of this act, be and the same is hereby repealed.

3. *Be it further enacted,* That the sixtieth section of the act aforesaid shall be and the same is hereby amended, so as to read as follows:

“§ 60. It shall be lawful for the council to borrow

money in the name and for the use of said city, and to convey, mortgage and pledge the public property and revenues of said city for the redemption of such loans, and for the payment of the interest thereon ; and so far as any such loan may be necessary to make provision for the payment of existing debts or liabilities of said city, such loans may be made at a rate of interest or discount exceeding six per cent per annum.”

Act of Mar. 11th, 1836, § 60, ante, p. xxxvii. Power to borrow money. When loans may exceed six per cent. interest.

4. This act shall be in force from its passage.

Commencement

AN ACT

To amend the thirty-fifth section of the act passed March 11th, 1836, entitled an act to incorporate the city of Wheeling, in the county of Ohio.

(Passed March 4th, 1854.)

1. *Be it enacted by the General Assembly,* That the thirty-fifth section of the act passed March the eleventh, eighteen hundred and thirty-six, entitled an act to incorporate the city of Wheeling in Ohio county, be and the same is hereby amended and re-enacted, so as to read as follows :

Mar. 11th, 1836, ante, p. xxx., § 35.

“§ 35. The council shall have exclusive authority within said city to grant or refuse license to the keepers of ordinaries, inns and taverns, houses of public or private entertainment, boarding houses, public eating houses, coffee-houses, places at which spirituous liquors shall be sold, and places of public amusement. They shall further have authority to regulate the manner in which such houses or places shall be kept, and to levy and collect taxes thereon in addition to any tax which is or shall be payable on the same to the state. But if the council shall, upon application, refuse or fail to grant any such license to keep an ordinary, a license to keep the same may be obtained from the county court of Ohio county, upon application thereto, as in other cases of ordinaries in said county.”

§ 35 amended Feb. 10th, 1871, Mar. 14th, 1881. Licenses to taverns, &c.

Tax on licenses.

If license refused, county court may grant it.

2. This act shall take effect from its passage.

Commencement

AN ACT

To amend the act passed May 28, 1852, entitled an act to incorporate the city of Wheeling, in Ohio county, and to authorize the council of the city of Wheeling to elect all the officers of said city, except mayor, councilmen, clerk, treasurer, aldermen, sergeant, wharfmaster, superintendent of the water works, and street commissioner.

(Passed February 25th, 1856.)

1. *Be it enacted by the General Assembly*, That the first section of the act passed May twenty-eighth, eighteen hundred and fifty-two, entitled an act to incorporate the city of Wheeling, in Ohio county, be and the same is hereby amended and re-enacted so as to read as follows:

Act of
May 28th, 1852,
ante, pp. xlv.
and xlvii., § 1.
See act of
Mar. 3d, 1870.
Act of
Mar. 25th, 1852.
Officers of
Wheeling elect-
ed by people.
Term of office.
Officers of
wards, how
elected.

“§ 1. *Be it enacted by the General Assembly*, That the mayor, councilmen, clerk, treasurer, aldermen, sergeant, wharfmaster, superintendent of the water works and street commissioner of the city of Wheeling, shall hereafter be annually elected from among the citizens thereof, qualified to vote for mayor and members of the council, on the same day of the general election held in and for said city; and shall hold their several offices for the term of one year and until their successors are qualified: *Provided, nevertheless*, That the officers appertaining separately to the several wards shall be elected by the qualified voters of each ward: *And provided further*, That the council of said city shall by ordinance prescribe the penalty and condition of the official bond to be given by each or any of said officers, if such bond be required under the ordinances of said city, and shall judge of the sufficiency of every such bond: *And provided further*, That all other officers of said city, under the ordinances thereof, shall annually be elected by its council.”

Bonds of offi-
cers.

Annual elec-
tions by council

Commencement

2. This act shall be in force from its passage.

AN ACT

To amend the first section of an act entitled an act to amend the act passed March 11, 1836, entitled an act to incorporate the city of Wheeling.

(Passed February 20th, 1858.)

Mar. 11th, 1836,
see ante, pp.
xxix. and xxx.,
§ 33.

1. *Be it enacted by the General Assembly*, That the first section of an act to amend the act passed March eleventh,

AMENDING THE CHARTER OF THE CITY.

11

eighteen hundred and thirty-six, entitled an act to incorporate the city of Wheeling, be amended and re-enacted so as to read as follows :

Mar. 1st, 1854,
ante, p. xlviii.,
§ 1.

“§ 1. That the thirty-third section of the act passed March eleventh, eighteen hundred and thirty-six, entitled an act to incorporate the city of Wheeling, in Ohio county, shall be and the same is hereby repealed, and that in lieu thereof the council of said city shall have authority to levy and collect an annual tax on all the real estate and tithables within the limits of said city, without exception: *Provided*, That such tax shall not in any one year exceed the sum of fifty cents on each tithable, and fifty cents on every hundred dollars of the value of said real estate: *And provided further*, That nothing contained in this act shall be so construed as to authorize the taxation of the real estate on Zane’s island, owned by Daniel Zane, or the trustee of Ebenezer Zane’s estate, so long as the same shall continue to be owned by them, or their legal representatives, or held under said trust, and not laid out into town lots, other than the same would be taxable if this act had not been passed. And for the purpose of ascertaining such value, the council shall, once in every five years, or oftener, if by it deemed proper, appoint some freeholder of said city, who shall, once in every five years, or oftener, if ordered by the council, assess the value thereof. And said freeholder so appointed shall be sworn impartially and faithfully to make such appraisement.”

§ 1 amended
Feb. 13th, 1862,
Feb. 24th, 1866,
Mar. 4th, 1868,
Mar. 24th, 1873.
Taxes authorized by council
in Wheeling.

Zane’s estate
exempt.

Property, when
assessed.

2. This act shall be in force from its passage.

Commencement

AN ACT

To amend the charter of the city of Wheeling.

(Passed February 13th, 1862.)

Be it enacted by the General Assembly, That the first section of an act passed March 1, 1854, entitled an act to amend the act passed March 11, 1836, entitled an act to incorporate the city of Wheeling, shall be and the same is amended and re-enacted so as to read as follows :

Act of
Mar. 11th, 1836,
ante, pp. xxix,
and xxx., § 33.
Mar. 1st, 1854,
ante, p. xlviii.,
§ 1.

1. That the Council of said city shall have authority to levy an annual tax on all the real estate and tithables within the limits of said city, without exception: *Provided*, That such tax shall not, in any one year, exceed the sum of fifty cents on each tithable, and fifty cents on every hundred dollars of the value of said real estate. *And pro-*

§ 1 amended
Feb. 24th, 1866,
Mar. 4th, 1868,
Mar. 24th, 1873.
Power to levy
tax on real estate and tithables in said city.

AN ACT

To regulate municipal elections.

(Passed February 22d, 1864.)

Elections of members of council and officers.

1. *Be it enacted by the Legislature of West Virginia,* All elections by the people for members of council and other officers of incorporated cities and towns shall be by ballot, and shall as far as practicable be so conducted that it may not be known at the polls for whom any person has voted.

Voter to take oath, if required, in time of war or public danger.

2. In time of war, insurrection or public danger, every person present and offering to vote at any such election shall, if required by any voter of the city or town, take an oath to support the constitution of the United States and the constitution of the state of West Virginia, or produce to the officers superintending the election the certificate of some person authorized to administer oaths that he has taken such oath, under pain of suspension of his right of voting. Any one of the officers superintending such election is hereby authorized to administer the said oath at the polls; and also to swear any person at the polls to answer questions respecting any right to vote which is disputed.

Who to administer oath.

Residence of voter.

3. If any person in the military, naval or marine service of the United States, or in the service of this state, was a resident of any incorporated city or town, or of any ward or division thereof, at the time he entered such service, his residence, until he makes known his intention to change the same, shall be considered as continuing in the said city, town, ward or division during the said service, although he be stationed or employed elsewhere; but no person in the military, naval or marine service of the United States shall be deemed a resident of any city, town, ward or division, by reason of his being stationed therein.

Voting by sending ballot, as provided by act of Nov. 13th 1863.

4. Any person entitled to vote at any such election as is mentioned in the first section of this act, who is necessarily absent from the city or town on the day of the election, in the service of the United States or of this State, may vote at such election in the manner prescribed in the twenty-sixth section of the act passed November thirteenth, eighteen hundred and sixty-three, entitled "An act to regulate elections by the people," except that the envelope or cover enclosing his ballot shall be addressed and transmitted to the officers superintending the election at the place of voting in the said city or town at which he is entitled to vote, and that the said officers shall have the same powers and perform the same duties, in respect to

such votes, as if they had been mentioned in the said twenty-sixth section instead of the supervisor and inspectors of the township.

5. The sixtieth section of the said act shall be held applicable to the elections mentioned in the first section of this act. See; act of Nov. 13th, 1863.

6. The elections by the people for members of council and other officers of any incorporated city or town shall be held at such times and places, under the superintendence of such officers, and be subject to such regulations, not inconsistent with this act, as may be directed by the charter of such city or town, or the by-laws or ordinances made in pursuance thereof. Elections held and conducted, how.

7. All former laws so far as they are inconsistent with this act are hereby repealed. Acts repealed.

AN ACT

To authorize the council of the city of Wheeling to collect a tax on personal property in said city.

(Passed February 28th, 1865.)

1. *Be it enacted by the Legislature of West Virginia,* The council of the city of Wheeling shall have authority, under such regulations as they may prescribe by ordinance, to assess, levy and collect an annual tax for the use of the city, on personal property in the city, not to exceed in any year, fifty cents on every hundred dollars of the assessed valuation thereof; and the words "personal property" shall be deemed to include all subjects of taxation which the assessors, acting under the laws of the state, are or shall be by law required to enter on their personal property books for the purpose of state taxation. Tax on personal property. Meaning of the words "personal property."

2. The third section of the act of the general assembly of Virginia, passed March ninth, eighteen hundred and thirty-eighth, entitled "An act to amend the act entitled 'an act to incorporate the city of Wheeling, in Ohio county,'" is hereby repealed. Act of Mar. 9th 1838, ante, p. xliii, § 3, repealed.

AN ACT

To amend section 1 of chapter 78 of the acts of the general assembly of the state of Virginia, passed February 13, 1862.

(Passed February 24, 1866.)

Be it enacted by the Legislature of West Virginia :

Section one of chapter seventy-eight of the acts of the general assembly of Virginia of eighteen hundred and sixty-two, is hereby amended and re-enacted so as to read as follows :

1. That the council of said city shall have authority to levy an annual tax on real estate and tithables, within the limits of said city without exception : *Provided*, That such tax shall not in any one year exceed the sum of fifty cents for each tithable, and fifty cents on every hundred dollars value of said real estate : *And provided*, That nothing contained in this act shall be so construed as to authorize taxation on the real estate lying and being situated on Zane's island, owned by the legal representatives, heirs or devisees of Daniel Zane, or the trustees of Ebenzer Zane's estate, or by Richard V. Whelan, or Elijah J. Stone, so long as the same shall continue to be owned by them, their legal representatives, heirs or devisees, or held under said trust, otherwise than the same would be taxable if this act had not passed, except that any part of the same may be taxed when laid out into town lots. And for the purpose of ascertaining such value, the council shall annually appoint one assessor from each ward, which assessors shall be freeholders in said city, and shall be sworn impartially and faithfully to make such appraisement.

Act of Mar. 11th, 1836, ante, pp. xxix. and xxx., § 33.
Act of Mar. 1st, 1854, ante, p. xlviii § 1.
Act of Feb. 20th, 1858, ante, p. li, § 1.
Act of Feb. 13th 1862, ante, pp. li. and lii., § 1.
Amended acts Mar. 4th, 1868.
Act of Mar. 24th, 1873.
See act of Feb. 28th, 1867. Taxation. Limit of taxation. Zane's island exempt.

AN ACT

Relating to the assessment of property in the city of Wheeling, for municipal taxation.

(Passed February 26th, 1867.)

Be it enacted by the Legislature of West Virginia :

For the purpose of ascertaining the value of the real and personal property taxable in the city of Wheeling for municipal purposes, the council of said city is hereby authorized to appoint, from time to time, when they deem proper, an assessor or two or more assessors for the said

Act of Mar. 11th, 1836, ante, pp. xxix. and xxx., § 33.
Act of Mar. 1st, 1854, ante, p. xlviii, § 1.
Act of Feb. 24th, 1866, supra.

city, or an assessor for every ward thereof, as to the said council shall seem fit, and to make such regulations respecting the assessment as shall not be inconsistent with the law of the state.

Appointment of assessors.

AN ACT

To amend an act entitled "an act to incorporate the city of Wheeling, in Ohio county," passed March 11, 1836.

(Passed February 7th, 1868.)

Be it enacted by the Legislature of West Virginia:

That the city councils of the city of Wheeling shall have power to grant to manufacturers and others the right to construct coal railways through and along the streets and alleys of said city, upon such terms and conditions, and subject to such regulations and restrictions as said councils may deem proper and expedient to avoid any unnecessary obstructions to the use of said streets and alleys by the public. And all grants and licenses heretofore made or issued by said city councils for coal railroads through and along the streets and alleys of said city, are hereby ratified and confirmed, and declared to be as valid and effectual as if this act had passed before such grants and licenses were made and issued: *Provided, however,* That nothing herein contained shall authorize the use of steam power for the purpose of propelling the machinery used on said roads.

Council has power to grant right to construct coal railways.

Former grants ratified.

Steam power not to be used.

AN ACT

Amending section 1 of chapter 68 of the Acts of 1866.

(Passed March 4th, 1868.)

Be it enacted by the Legislature of West Virginia:

That section one of chapter sixty-eight of the acts of eighteen hundred and sixty-six, is hereby amended and re-enacted so as to read as follows:

"1. That the council of the city of Wheeling shall have authority to levy an annual tax on all real estate and tithables within the limits of said city, without exception: *Provided,* That such tax shall not in any one year exceed the sum of fifty cents for each tithable, and fifty cents on every hundred dollars value of said real estate: *And pro-*

Act March 11, 1836, ante pp. xxix and xxx., § 83.
Act March 1, 1854, ante p. xlviii., § 1.
Act Feb. 20, 1858, ante p. li., § 1.

Act Feb. 13, 1862, ante pp. li and liii, § 1. And see act of Feb. 26, 1867, ante pp. lviii and lix. § 1 Amended by act approved March 24, 1873, seq. p. lxiv. And see acts of March 3, 1879, seq. and March 14, 1881, seq. Power of council of Wheeling to levy a tax. Certain property exempt from taxation.

vided, That nothing contained in this act shall be so construed as to authorize taxation on the real estate lying and being situated on Zane's Island, owned by the legal representatives, heirs or devisees of Daniel Zane, or the trustees of Ebenezer Zane's estate, or by Richard V. Whelan, Elijah J. Stone, John Fink, George Faubel, John Smith, Edwin E. Zane and Angeline Fink, so long as the said real estate shall continue to be owned by them, their legal representatives, heirs or devisees, or held under said trust, otherwise than the same would be taxable if this act had not passed, except that any part of the same may be taxed when laid out into town lots."

AN ACT

To amend the charter of the city of Wheeling.

(Passed March 3d, 1870.)

Be it enacted by the Legislature of West Virginia :

See act March 11, 1836, ante p. xxvi., § 14. Act Jan. 15, 1863, ante, pp. liii. and liv., §§ 1, 2, 3 and 4. Next charter election. Election biennial. Terms of office of members of council.

1. That the next charter election of Wheeling shall be held on the fourth Thursday of January, eighteen hundred and seventy-one. That thereafter the charter elections for members of council and city officers shall be held biennially instead of annually; that members of the first branch of the council shall be elected for the term of four years, and members of the second branch for the term of two years: *Provided*, That at the next charter election two members of the first branch of the city council shall be voted for in each ward, and the candidate receiving the highest number of votes shall be elected for four years, and the candidate receiving the next highest number of votes shall be elected for two years; and when the members thus elected are sworn into office, the term of office of all members heretofore elected shall expire.

Act of March 11, 1836, ante p. xxxviii., § 65. And see act of Feb. 3, 1863, ante, p. lv. See act March 24, 1882, § 1, seq. § 2 Amended March 25, 1882. Sergeant ineligible for re-election after two terms.

Powers of sergeant. Act March 11, 1836, ante p. xxxii., § 42.

2. That the mayor, city clerk, city sergeant, superintendent of water works, street commissioner, and wharf master, so elected by the qualified voters for the term of two years, and that all other officers deemed necessary by the city council shall be elected by the council for the term of two years. That the city sergeant (and deputies who have served under him during the preceding year) shall be ineligible for re-election after two successive terms, until one term shall have intervened; and that the powers of the city sergeant and his deputies, under the ordinances of the city, shall extend to and embrace the Peninsula cemetery and the approaches thereto; and that the city

shall be empowered to enforce its lien upon real estate re-
 turned delinquent for the non-payment of city taxes and
 assessments thereon, by a sale thereof; and that the office
 of city treasurer as now provided for by the charter, be
 abolished; the foregoing amendments to take effect on
 the fourth Monday of January, eighteen hundred and
 seventy-one.

Lien on real estate for taxes.

Office of treasurer abolished.

When amendments to take effect.

3. That the powers granted in section thirty-one of the
 charter of eighteen hundred and thirty-six be incorporated
 in the present charter.

See ante p. xxix, 81.

3 amended March 25, 1882.

4. *And be it further enacted*, That all acts under the
 present charter of the city of Wheeling, inconsistent with
 this, shall be repealed from and after the time the forego-
 ing amendments take effect.

Inconsistent acts repealed.

AN ACT

To amend the charter and extend and prescribe the limits
 of the city of Wheeling.

(Passed February 2d, 1871.)

Be it enacted by the Legislature of West Virginia:

1. The corporate limits and boundaries of the city of
 Wheeling, in the county of Ohio, shall be as follows: Be-
 ginning on the east side of the Ohio river at the northeast
 corner of the Johnathan Zane survey in Washington
 township, Ohio county, now corner of lands belonging to
 the estate of Hugh Nicholas, dec'd, and the Wheeling
 Iron Works Company; thence with the original Zane line
 called S. 27 East to the ash corner of the Steinrod survey
 near Coal Run; thence down Coal Run to Wheeling
 Creek, and thence up said creek to the mouth of Stack
 Yard Hollow; thence in a direct line southward to a
 double Locust corner on the top of the hill, in the line be-
 tween the Steinrod and Reily estates; thence in a direct
 line southwardly to the mouth of George's Branch, in Cald-
 well's Run; thence south to the Ohio and Marshall county
 line, and with the same westwardly to the Ohio and
 Marshall county stone, near the river bank; thence cross-
 ing the Ohio river, by a due west course, to the line be-
 tween the States of West Wirginia and Ohio, and with
 said line northwardly to the north side of Hanover street,
 in the town of Martinsville or Martin's Ferry, Belmont
 county, Ohio; thence in a direct line and crossing the
 river to the place of beginning.

Jan. 6, 1836, and March 11, 1836, ante pp. xx, and xxi, and p. xxiii § 1. Corporate limits.

Powers, duties and obligations of the municipal authorities. 2. The powers, duties and obligations of the municipal authorities of said city shall be and remain as prescribed by the laws now in force, in relation thereto, and shall hereafter extend to and be exercised within the boundaries specified in section one of this act, except when inconsistent with this act.

The rights and property of South Wheeling vested in the city of Wheeling. 3. The money, taxes, real estate, rights in action, demands, and property of whatever nature, and the papers, documents and records belonging to the said town of South Wheeling are hereby transferred to and vested in the city of Wheeling, as its successor, as fully and effectually as they now do in said town.

Eighth ward established. First election therein. Officers elected. Terms of office. 4. Until otherwise provided, all that part of the territory described in the first section of this act, which lies within the township of Ritchie, shall be a separate ward and shall be styled the eighth ward, in which an election shall be held on the first Monday in April next, at such places therein as the mayor of said city shall designate, and in the manner prescribed by the laws and ordinances of the city for similar elections. At the said time and place there shall be elected by the qualified voters of said township of Ritchie, residing within said ward, two (2) citizens thereof to be members of the first branch, and four (4) citizens thereof to be members of the second branch of the city council, who shall serve until the next succeeding election in said city for municipal officers, and until their successors are elected and qualified: *Provided, however,* That the candidate receiving the highest number of votes for the first branch shall serve for an additional term of two (2) years.

Duty of the city council under this act. 5. It shall be the duty of the city council, at its first regular meeting after the passage of this act, or as soon thereafter as practicable, to attach the remaining part of the said territory, not within the present wards of said city, to such of the adjoining wards as the council may deem proper, and before the first day of January, one thousand eight hundred and seventy-three, the council shall re-apportion the representation amongst the several wards in the manner provided by law: *Provided,* The whole number of members of the second branch shall not exceed thirty (30): *And provided further,* That nothing herein shall be construed to limit or restrict the power of the council to re-district said city or change the lines of any ward thereof, as now provided by law.

Acts repealed. 6. All acts inconsistent with this act are hereby repealed.

AN ACT

To amend and re-enact an act entitled "An act to amend the thirty-fifth section of the act passed by the General Assembly of Virginia, March 11th, 1836, entitled 'An act to incorporate the city of Wheeling, in the county of Ohio.'"

(Passed February 10th, 1871.)

Be it enacted by the Legislature of West Virginia :

That section thirty-five of an act of the General Assembly of the State of Virginia, entitled "An act to incorporate the city of Wheeling, in Ohio county," as amended and re-enacted by the General Assembly of Virginia, passed March the fourth, eighteen hundred and fifty-four, be amended and re-enacted so as to read as follows :

Acts March 11, 1836, ante p. xxx., § 35. Mar. 4, 1854, ante, p. xlix. Amended March 14, 1881, seq.

35. The council shall have exclusive authority within said city to grant or refuse license to the keepers of ordinaries, inns and taverns, houses of public or private entertainment, boarding houses, public eating houses, coffee houses, places at which spirituous liquors shall be sold, places of public amusement and boarding stables or keeping and feeding horses, mules and cattle for a compensation : *Provided, however,* That this act shall not require persons keeping an inn or tavern with stabling attached to pay any additional license to that now required by law. They shall further have authority to regulate the manner in which such houses or places shall be kept, and to levy and collect taxes thereon, in addition to any tax which is or shall be payable on the same to the State.

Powers of council to grant or refuse licenses.

Exemption of taverns with stabling attached. Power to regulate manner of keeping ordinaries, &c.

AN ACT

To authorize the council of the city of Wheeling to correct erroneous assessments of property.

(Passed February 28th, 1872.)

Be it enacted by the Legislature of West Virginia :

1. The council of the city of Wheeling shall have jurisdiction to hear, try and determine all applications to correct the assessments of the city assessor of real and personal property within the city of Wheeling, and the said council shall have authority to correct all erroneous assessments of property, by placing such erroneously assessed

Authority to correct erroneous assessments.

property at its true value, whenever it shall be made to appear to them that the same is assed either too high or too low.

2. This act shall not apply to any assessments made for state, county or township purposes.

Not to apply to state, county or township assessments.

AN ACT

To amend an act passed March 4th, 1868, entitled "An act amending section one of chapter sixty-eight of the acts of 1866."

(Approved March 24th, 1873.)

Be it enacted by the Legislature of West Virginia :

Act March 11, 1866, ante pp. xxix. and xxx., § 38.
Act March 1, 1864, ante, p. xiviii., § 1.
Act Feb'y 20, 1863, p. ii., § 1.
Act Feb'y 13, 1862, pp. ii. and iii., § 1.
Act Feb'y 24, 1866, ante p. lviii.
Act March 4, 1868, pp. lix and lx., § 1.
See act March 3, 1870, seq.
See act March 14, 1881, seq.
Authority to levy annual tax.
Limit of taxation.

That chapter one hundred and forty-three of the acts of the Legislature of West Virginia of 1868, is hereby amended and re-enacted so as to read as follows :

1. That the council of the city of Wheeling shall have authority to levy an annual tax on all real estate and tithables within the limits of said city, without exception: *Provided*, That such tax shall not in any one year exceed the sum of fifty cents for each tithable, and fifty cents on every hundred dollars value of real estate.*

*Liens upon real estate for payment of taxes may be enforced. See act of March 11th, 1866, ante, p. xxxii., § 42; act of March 3d, 1870, ante, pp. lx. and lxi., § 2. As to power of distress, see act of March 11th, 1866, ante, pp. xxxi. and xxxii., §§ 40, 41 and 42.

AN ACT

Authorizing municipal corporations to issue bonds.

(Approved December, 2d, 1873.)

Be it enacted by the Legislature of West Virginia :

Corporations authorized to issue and sell bonds.

Aggregate of debt not to exceed 5 per centum on value of taxable property. How value of property to be ascertained.

1. All municipal corporations for the government of cities, towns and villages in this state, are hereby authorized to issue their bonds and to sell the same: *Provided*, That no such corporation shall by such issue and sale of bonds, cause the aggregate of its debt of every kind whatsoever, to exceed five per centum on the value of taxable property therein, which value shall be ascertained by the last assessment for state and county taxes previous to the issue of such bonds; nor shall they make such issue and sale without at the same time providing for the collection

of a direct annual tax, sufficient to pay annually the interest on such debt, and the principal thereof within and not exceeding thirty-four years. But no city, town or village shall ever impose or exact from the inhabitants thereof, a greater amount annually than the following rates, to-wit:

Interest on debt to be paid annually. Principal within and not exceeding 34 years. Rates of taxation.

FIRST. If it be in and for a city containing a population of more than twenty thousand inhabitants, the power of taxation shall not exceed two per cent. on the assessed value of property for state purposes, beyond a tax for railroad purposes, which may be imposed for that object, not exceeding three per cent. of such value.

In and for a city containing a population of more than 20,000 inhabitants.

SECOND. If it be in a city, town or village containing a population of more than ten thousand inhabitants and less than twenty thousand inhabitants, the rate shall not exceed one dollar and fifty cents on every one hundred dollars value of property, ascertained by the last assessment for state and county purposes.

In a city, &c., containing more than ten and less than twenty thousand inhabitants.

THIRD. If it be in a city, town or village containing a population of more than three thousand inhabitants and less than ten thousand inhabitants, the tax shall not exceed one dollar and twenty-five cents on every one hundred dollars value, as ascertained by the last assessment for state and county purposes.

In a city, &c., containing a population of more than three and less than ten thousand inhabitants.

FOURTH. If it be in a city, town or village containing a population of less than three thousand inhabitants, the tax shall not exceed fifty cents on every one hundred dollars value of property therein, as ascertained by the last assessment for state and county purposes.

In a city, &c., containing a population of less than three thousand inhabitants.

The foregoing rates may be augmented, not exceeding sixty per cent. of the rates here provided, if submitted to a vote of the inhabitants of any such city, town or village, and approved by three-fifths of the qualified voters therein voting on the question. Every city, town and village shall be authorized to impose taxation on every inhabitant thereof to the extent of the value of his property therein.

Increase of taxation. What per cent. To be submitted to a vote. Three-fifths to approve. Taxation to be imposed according to value of property.

Such taxes shall be uniform with respect to persons and property within their jurisdiction, and shall only be levied on such property, real and personal, and mixed, and on capital, on which the state imposes a tax, and on licenses;

To be uniform. On what property levied.

but no special tax shall ever be imposed except the special tax be on such subject as the state imposes a license tax for the exercise of a privilege. Every city, town and village by its corporate authorities, in the exercise of its police force and fiscal affairs, may impose a license tax for any privilege for the exercise of which the state imposes

Special tax; on what subject imposed. License tax; how and on what privilege imposed.

For the right to tax and enforce the same, and to enforce police regulations, jurisdiction extends one mile beyond corporate limits

How such taxes may be assessed, collected and accounted for.

Authority of council as to taxation within one mile of corporate limits to extend only to the imposition of a license tax, and to enforce payment thereof.

To authorize the issuing of bonds, all questions connected therewith must be submitted to the qualified voters, and receive a three-fifth vote.

Council to adopt an ordinance when deemed expedient to issue bonds. What ordinance must specify.

Duty of mayor or chief officer. Proclamation, what to contain

Its publication.

Notice.

Election, how conducted.

Who may vote.

a license tax, and for the right to tax such privilege and for the purpose of enforcing the same, and such police regulations as may be prescribed for such city, town or village, the jurisdiction of every city, town or village shall extend one mile beyond the corporate limits of any such city, town or village as prescribed by the act of its incorporation. All such taxes on such property and capital may be assessed and collected by such council in such manner, and shall be accounted for at such time or times as may be prescribed by the council of any such city, town or village. But no such tax on any such property or capital outside of said corporation limits and within said mile, shall be imposed by any such council, and the power of taxation outside of said limits and within said line, shall only extend to the imposition of a license tax on such subjects as the state imposes a license tax, and the power of enforcing the payment thereof.

2. No bonds shall be issued by any such corporation under this law, unless all questions connected with the same shall have been first submitted to the qualified voters of such corporation, and have received three-fifths of all the votes cast for and against the same.

3. When the council of any city or the corporate authorities of any city, town or village, shall deem it expedient to issue such bonds, an ordinance specifying the purpose and amount for which such bonds are to be issued, shall be adopted by them in regular meeting, and it shall then be the duty of the mayor, or where there is no mayor, of the chief officers of such city, town or village, to issue a proclamation reciting said ordinance, and appointing a day at which an election shall be held by the qualified voters of such city town or village, to decide whether they will ratify or reject said ordinance. Such proclamation shall be published in all the newspapers published in such city, town or village at least once a week for two weeks previous to the day of the election, and where there is no such newspaper, notice of such proclamation shall be given by such means as the town authorities may consider best calculated to afford all voters an opportunity to learn its contents.

4. Such election shall be conducted in all things according to the laws then in force governing elections, and the provisions of the charter of the city, town or village in which they are held. All persons qualified to vote at other municipal elections in such city, town or village, and no others, shall vote at such elections as are herein authorized.

5. The person voting for the ratification of any such ordinance, shall have written or printed upon his ballot the words "For Ratification," and the person voting against ratification, shall have written or printed upon his ballot the words "For Rejection."

Ballot; words to be written or printed on.

6. Only one ordinance made in pursuance of the third section of this act, shall be submitted at any election; but that ordinance may specify more than one purpose for which said bonds are to be issued: *Provided, however, That* the amount to be appropriated to each purpose, shall also be specified therein.

Only one ordinance to be submitted.

What it may specify. Proviso.

7. The proclamation provided for in the third section of this act, shall specify the aggregate amount of indebtedness, issued and authorized, of such city, town or village, existing at the date of the proclamation.

Proclamation, what it must specify.

8. Bonds issued under this law shall be of the denomination of one hundred dollars, and of multiples thereof. They shall be payable not less than ten, nor more than thirty-four years after date. They shall bear not more than ten per cent interest, and the interest shall be payable annually. And no debt shall be hereafter created by any city, town or village, except the debt designated and provided for by this act as the bonded debt.

Bonds, denomination of.

When payable. What interest to bear.

When payable. No debt to be created except the bonded debt.

9. It shall be unlawful for the officers of any city, town or village, to issue or sell directly or indirectly any bond, or to issue any other evidence of indebtedness to be used in payment for work or materials to be furnished, but all such bonds shall be publicly sold upon the terms prescribed by this act, to the highest bidder in writing, to be approved by the officers conducting the sale, for cash, or its equivalent in bonds previously issued by such city, town or village, and the money arising therefrom shall be used as by this act authorized; and before any sale of such bonds, said sale shall be advertised in some convenient newspaper, at least four weeks previous to such sale.

Selling or issuing bonds or other evidence of indebtedness. Officers prevented from. Bonds to be sold publicly, to highest bidder in writing. Terms.

Proceeds; how used. Sale to be advertised.

10. The treasurer and his securities shall be liable for the sinking fund, and the interest heretofore levied, or that hereafter may be levied for a sinking fund in any city, town or village, and to pay interest on the bonded debt; and it shall only be applied to the purposes for which it was levied, or for investment in United States bonds, or the bonds of the city, town or village, as the council may direct; to be used for the payment of principal and interest of any bonded debt of such city, town or village. And any officer violating the provisions of this act, shall be guilty of a misdemeanor, and upon conviction

Sinking fund. Liability of treasurer therefor.

How applied or invested.

Penalty for violating provisions of this act.

thereof, shall be fined not less than fifty dollars nor more than five hundred dollars for each offense, and in addition thereto, shall be imprisoned in the county or city jail, not less than ten days nor more than six months for each offense.

Bonds to be sold at par value. Acts repealed.

11. Bonds shall be sold at not less than their par value.

12. All acts and parts of acts inconsistent with this act are hereby repealed.

Commencement.

13. This act shall be in force from and after the passage thereof.

AN ACT

Amending the charter of the city of Wheeling, in relation to the paving or macadamizing of the streets and alleys, and the payment of the expenses thereof.

(Passed December 13th, 1873.)

Be it enacted by the Legislature of West Virginia :

Act of March 11th, 1836, § 45, p. xxxii. See act of Mar. 14th, 1881, § 1, seq. Act of March 24th, 1891. Commissioners on street pavements; when and how appointed. Oath of office. Their duty.

1. It shall be the duty of the council of the city of Wheeling, at their first regular meeting in January next, or as soon thereafter as practicable, to appoint a board, consisting of three free-holders of said city, to be called the board of commissioners on street pavements. The members of said board shall be duly sworn or affirmed, diligently and faithfully to discharge the duties imposed upon them by this act. It shall be the duty of said board to ascertain and report the value of the cobble-stone pavement in front of each lot, or fractional part of a lot, fronting or bounding on any street or alley of the city of Wheeling, extending to the middle of said street or alley, which has been heretofore paved at the expense of said city, and make report thereof as soon as practicable. For his services, each member of said board shall receive such compensation as may be fixed and determined by the council of said city.

Their compensation.

See act of Mar. 14th, 1881, § 2, seq. Act of Feb. 24th, 1891, seq. Two-thirds of the value of the cobble-stone pavement to the middle of the street or alley, which has been paved at the expense

2. Two-thirds of the value of the cobble-stone pavement to the middle of the street or alley as thus ascertained and reported by said board, shall be a lien upon the lot or fractional part of a lot mentioned in said report, in front whereof said pavement has been heretofore laid down at the expense of said city, and shall be paid in four equal instalments; the first being due and payable on the first day of September next, and the remaining instalments

AMENDING THE CHARTER OF THE CITY OF WHEELING. Ixix

on the first day of September in the years 1875, 1876 and 1877. The said value for each lot or fractional part of a lot, shall be returned in the name of the person holding the title thereof in fee, whether in his own right or any fiduciary character. The lien created and declared by this section may be enforced by the decree of the circuit court for Ohio county; should any instalment of the said two-thirds of the value, ascertained and reported by said board as to any lot or fractional part of a lot, not be paid into the treasury of the city, or to such person or officer as may be designated or appointed by the council thereof, to collect and receive the same, within three months after the said instalment shall have become due and payable, upon not less than thirty day's notice, either by personal service, or by publication for four weeks in some newspaper published in the city of Wheeling. The report of said board shall be referred to a joint committee of the council of said city, and after hearing any one claiming to be aggrieved, after having not less than ten day's notice of the time and place of their meeting, the said joint committee shall revise the same, with full power of correction and amendment; and thereafter said report thus revised and corrected, shall be deemed and taken as conclusive evidence of the values set forth in said report.

3. The said report, thus revised and corrected shall be placed in the hands of such person or officer as the council may select or appoint for collection; and for the performance of this duty, such person or officer shall have the same powers as are vested in the sheriff of Ohio county by law for the collection of taxes; shall give bond with such security as the council may by ordinance require, and together with his sureties shall be subject to the same responsibilities as are by law imposed upon said sheriff and his sureties. The proceeds of all collections, made under and by virtue of this act, of the two-thirds of the value of the cobble-stone pavements heretofore laid by said city of Wheeling, shall be and remain a separate and distinct fund, to be known as "the street pavement fund;" of which a separate account shall be kept in the books of the city, and shall never be used or disbursed by said city for any other purpose than the paving the streets and alleys of said city, in the manner and upon the terms hereinafter prescribed.

4. Upon the petition of the persons owning the greater part of the lots or grounds fronting or bounding upon both sides of any street or alley between any two streets, the council shall order the said street or alley to be paved

of the city, as ascertained and reported by commissioners, shall be a lien upon the lot, &c., and be paid in four equal instalments. When instalments due and payable, in whose name value of lot to be returned. How and when lien enforced.

Notice; how given.

Report of board to be referred to joint committee. Persons aggrieved.

Revision of report. When report deemed conclusive evidence as to value set forth in it.

Revised report, in whose hands to be placed for collection.

Powers of such person.

To give bond.

Responsibility imposed.

Proceeds collected, to be kept separate and known as "the street pavement fund."

Separate account to be kept of it. How to be used or disbursed.

When council shall order streets or alleys to be paved.

<p>Under whose superintendence. Upon what terms. Two-thirds of cost: how assessed.</p>	<p>How and when paid.</p>	<p>One-third to be paid by city.</p>	<p>When city to pay entire expense.</p>	<p>Liens for money assessed</p>	<p>How enforced and collected.</p>	<p>Duty of council when there is no "street pavement fund."</p>	<p>When council shall authorize streets or alleys to be macadamized.</p>	<p>Under whose superintendence. Upon what terms. Two-thirds of the cost of. How assessed.</p>	<p>How and when paid.</p>	<p>City to pay one-third.</p>	<p>Intersections at cost of city:</p>	<p>between the curbs, with cobble-stones or other suitable material, under the superintendence of the street commissioner of said city, upon the lowest and best terms to be obtained by advertisement for bids or proposals, and two-thirds of the cost of such payment from the curb on either side to the middle of the street or alley shall be assessed to the owners of the lots or fractional part of lots fronting or bounding on such street or alley in proportion to the distance so fronting or abutting, owned by each; the one-fourth whereof shall be paid within thirty days after the completion of the work, and the remainder in three equal instalments, payable respectively in one, two and three years from the date of said first payment; the other third of the cost of such pavement shall be paid by the city; the intersection of every two streets, or of a street and alley paved under this section, shall be paved at the sole expense of the city. The sums of money thus assessed, shall be liens upon the several lots and fractional parts of lots upon which they are assessed, to be enforced by decree as hereinbefore provided or collected by the same person or officer, with the same powers, and subject to the same responsibilities as are prescribed by the third section of this act. When the "street pavement fund" shall have been exhausted, or if no such fund shall have been collected, the council shall be authorized to order the paving of streets or alleys under the terms of this act at their discretion, and the one-third thereof shall be paid out of the general fund in the treasury of the city.</p> <p>5. Upon the petition of the persons owning the greater part of the lots fronting or bounding on both sides of any street, or alley between any two streets, the council shall be authorized to order the said street or alley to be macadamized, under the superintendence of the street commissioner, upon the lowest and best terms to be obtained by advertisement for bids or proposals, and two-thirds of the cost of such macadamizing, from the curb on either side to the middle of the street or alley, shall be assessed to the owners of the lots or fractional parts of lots fronting or abutting on such streets or alleys, in proportion to the distance so fronting or abutting, owned by each. The one-fourth thereof shall be paid within thirty days after the completion of the work, and the remainder in three equal instalments, payable respectively in one, two and three years from the date of the first payment; the other third of the cost of said macadamizing shall be paid by the city. The intersections of streets, or of a street and alley, macadamized under this section, shall be macadamized at the sole expense of the city. The sums of money</p>
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thus assessed for macadamizing shall be a lien upon the several lots or fractional parts of lots upon which they are assessed, to be enforced by decree as hereinbefore provided, or collected by the same person or officer, with the same powers and subject to the same responsibilities as are prescribed by the third section of this act.

Lien of money thus assessed.

How enforced and collected.

AN ACT

To authorize the establishment and maintenance of infirmaries, houses of correction and work-houses in certain counties, cities and towns.

(Approved December 13th, 1875.)

Be it enacted by the Legislature of West Virginia:

1. Cities or towns having a population of not less than five thousand inhabitants shall have power to establish and maintain an infirmary for the accommodation of the poor of the city, either within or without the limits of the city, and to provide for the distribution of out-door relief to the poor.

Infirmary; what cities or towns may establish and maintain.

2. The council of any such city or town shall have power to establish and maintain, either within its limits or within the county in which it is situated, a house of refuge or a house of correction, and a work-house or either of them, and place the same under the management and control of such directors, superintendents and other officers as the council may, by ordinance, provide.

Houses of refuge, of correction and work-houses; power to establish and maintain.

3. All children under the age of sixteen years, who shall be convicted of any offense made punishable by imprisonment under any ordinance of said city or town, or who shall be liable to be committed to prison under any such ordinance, may be confined in such house of refuge, and may be there kept or apprenticed out, under such rules as the directors of the house of refuge may prescribe, until they arrive at the age of eighteen years, unless for good cause sooner discharged by law. Any person over the age of sixteen years convicted of the violation of any ordinance of any such city or town, and liable to be punished therefor by imprisonment, may in lieu thereof be committed to the house of correction or to the work-house as may be provided by ordinance.

Who may be confined in houses of refuge or apprenticed out.

When to be discharged.

Who may be committed to houses of correction or work-houses.

4. The board of directors of any house of refuge, established by any such city or town, are authorized to appoint

Board of directors, of any house of refuge, authorized to appoint a committee with power to execute deeds of apprenticeship. Force and effect thereof.

Where filed and kept.

Inmates to be re-committed to the institution; when.

County courts or police and fiscal tribunals have power to use houses of refuge, &c., for children or persons who shall be convicted of any offense not of the grade of felony.

Provided, they maintain a just proportion of the expenses.

Appointment of directors, officers, &c., by such county authorities.

a committee of one or more of their own number with power to execute and deliver on behalf of said board, deeds of apprenticeship for any inmate of said institution whom they may deem a proper person for an apprenticeship to a trade or occupation, to such person as said committee, or the board may select, and said deeds shall have the like force and effect as other deeds of apprenticeship under the laws of this state, and said deeds shall be filed and kept in said institution by the superintendent thereof, and it shall not be necessary to file the same in any other place or office.

5. When any inmate of said institution shall have been apprenticed and prove untrustworthy and unreformed, he or she shall be re-committed to the said institution to be held in the same manner as before said apprenticeship.

6. The county court or police and fiscal tribunal of any county in which said city or town is situated, and wherein such house of refuge or house of correction and work-house may be established as aforesaid, shall have power to use the said house of refuge or house of correction, or work-house for children or persons of the age hereinbefore mentioned, who shall be convicted in said county in any court thereof, of any offense not of the grade of felony under the laws of this State: *Provided*, said county or police and fiscal tribunal shall maintain its just proportion of the expense of such house of refuge, house of correction, or work-house, to be levied for and paid out of the county treasury. And when such houses are so adopted by such county authorities, they shall have the right to the appointment of such member of the board of directors, superintendents and officers of said houses as may be determined by the agreement of such council and such county authorities.

AN ACT

Authorizing certain laws and ordinances to be superceded and annulled.

(Approved December 22, 1875.)

Be it enacted by the Legislature of West Virginia :

Unlawful or erroneous levy or imposition of taxes; how superceded and annulled.

That upon the petition of ten taxpayers residing in any city, town or village, aggrieved by an unlawful or erroneous levy or imposition of taxes, the circuit court of such county may supercede the levy made by such city, town

or village, in the same manner, and to the same effect as the circuit court may now supercede a levy made by the county court. In like manner, if an independent school district, or any other school district, impose a tax or levy contrary to law, or in excess of the rate of taxation prescribed in the act creating an independent district, for school purposes, upon a like petition the circuit court may supercede the levy. Upon like petition, any ordinance of a city, town or village, made contrary to law, the circuit court may supercede, revoke and annul the same. The court, if it deem proper to do so, may require security for costs.

Unlawful ordinances, how superceded, revoked and annulled.
Security for costs may be required.

AN ACT

To amend and re-enact section twenty-four of an act of the General Assembly of Virginia, entitled "an act to incorporate the city of Wheeling, in Ohio county," passed March 11th, 1836.

(Passed February 20th, 1877.)

Be it enacted by the Legislature of West Virginia :

1. That the twenty-fourth section of an act of the General Assembly of Virginia, entitled "an act to incorporate the city of Wheeling, in Ohio county," passed March eleventh, one thousand eight hundred and thirty-six, be amended and re-enacted so as to read as follows:

Sec. 24 of general assembly of Virginia, passed March 11th, 1836, incorporating the city of Wheeling, amended.

SECTION 24. No money shall be appropriated by the council of the city of Wheeling, no contract on behalf of said city entered into or authorized, nor shall any ordinance be passed unless two-thirds of the members present when the question is put shall concur therein, or unless the same be concurred in at two consecutive meetings of the council held on different days, by a majority of the members present at each of said meetings.

Act of March 11th, 1836, ante, p. xxviii., § 24. What vote of council necessary to appropriate money, to authorize contract or to pass an ordinance.

On or before the first Tuesday in May in each and every year the joint or standing committee of the council of said city, known as the committee on streets and alleys and grades, shall prepare an estimate of the amount of money that will be required to meet the expenses for the ensuing year for macadamizing, curbstones, crossings, sewers, grading, cleaning and repairing the streets and alleys of the said city. The joint or standing committee on water works shall, within said time, prepare a like estimate of the contingent expenses of the water works, extensions of

Committee on streets, alleys and grades; estimate to be prepared by and when.
Committee on water works; estimate to be prepared by and when.

mains, fire plugs and placing of the same, and repairs to works, basin, mains and fire plugs. The joint or standing committee on fire department shall, within said time, prepare a like estimate of the amount required to meet the expenses of the fire department of said city. The joint or standing committee on lights shall, within said time, prepare a like estimate of the amount required to meet the expenses of lighting the said city, and the purchase, erection and repair of lamps and posts. And the said estimates being so made, the respective committees shall report the same to a meeting of the council of said city to be held on the first Tuesday in May in each year. At said meeting or at some meeting held in May or June of each year, the council shall examine said estimates and shall ascertain and determine by ordinance the amount of money necessary to meet the said expenses for the ensuing year on account of the streets and alleys, including grades, the water works, the fire department and the lighting of said city as aforesaid, and in no year shall the expenditures on the streets and alleys, water works, fire department and lighting of said city exceed the amount so ascertained and determined, unless four-fifths of the members present when the question upon any extra appropriation for any subject in this section mentioned is put, shall concur therein, or unless the same shall be concurred in at two consecutive meetings of the council held on different days, by two-thirds of the members present at each of said meetings.

Committee on lights; estimate to be prepared by and when.

When estimates to be reported to council.

Council to examine estimates when; what to ascertain and determine.

Expenditures in no year to exceed the amount ascertained and determined by council, unless, etc.

Extra appropriation; must be concurred in by what vote.

AN ACT

Authorizing the levy of a special tax by the council of the city of Wheeling for paving and macadamizing.

(Passed March 3d, 1879.)

Be it enacted by the Legislature of West Virginia:

See act March 11th, 1836, ante, pp. xxix. and xxx., § 33; Act Mar. 1st, 1854, ante, p. xlviii., § 1. Act Feb. 20th, 1858, ante, p. li., § 1. Act Feb. 13th, 1862, ante, pp. li. and lii., § 1. Act Feb. 26th, 1867, ante, pp. lviii and lix. Act Mar. 4th, 1868, ante, pp. lix. and lx. § 1 amended acts Mar. 14th, 1881, seq. Special tax.

1. The council of the city of Wheeling is hereby authorized in addition to their present authority to levy taxes, to assess, levy and collect an annual tax, for the purpose hereinafter named, on the personal property and real estate in said city subject to taxation by said city, not to exceed in any year ten cents on every hundred dollars of the assessed valuation thereof; the money so collected shall be used for the purpose of paving or macadamizing streets or alleys in said city that have not been heretofore paved, and such money shall in no case be used to pay for

repairs to old paving or macadamizing or for anything except new paving or macadamizing. Limit. Use of money.

2. The money collected by virtue of this act shall be assessed, levied and collected in addition to the money assessed, levied and collected for other purposes by said city under present laws. § 2 amended acts Mar. 14th, 1881, seq. To be in addition to other taxes.

3. The funds raised by virtue hereof shall be used for no other purpose than that named in the first section, and the use of such funds for any other purpose may be restrained by injunction upon a bill filed by any one or more tax payers of said city. For what purpose funds to be used. Injunction.

AN ACT

To amend and re-enact sections twenty-nine, fifty and fifty-one of an act of the general assembly of the state of Virginia, passed March eleventh, one thousand eight hundred and thirty-six, entitled "An act to incorporate the city of Wheeling, in Ohio county."

(Passed March 8th, 1879.)

Be it enacted by the Legislature of West Virginia :

1. That sections twenty-nine, fifty and fifty-one, of an act of the general assembly of the state of Virginia, passed March eleventh, one thousand eight hundred and thirty-six, entitled "An act to incorporate the city of Wheeling, in Ohio county," be amended and re-enacted so as to read as follows: Sections 29, 50, and 51, acts of Virginia, passed Mar. 11th, 1836, amended.

"29. The council shall have authority to pass all ordinances (not repugnant to the constitution and laws of the United States, or of this state,) which shall be necessary and proper to carry into full effect any power, authority, capacity or jurisdiction which is or shall be granted to, or vested in, the said city or in the council, or any officer of said city; and to enforce any or all of their ordinances by reasonable fines and penalties and by imprisoning the offender or offenders, and by compelling them to labor, without compensation, at any of the public works or improvements undertaken or to be undertaken by said city, or by any or all of the said modes. *Provided, however,* that no fine shall be imposed exceeding one hundred dollars, and that no person shall be imprisoned or compelled to labor as aforesaid more than one year for any one of- Act Mar. 11th, 1836, ante, p. xxviii., § 29. Power of council to pass ordinances. Power to enforce all ordinances. Proviso, limiting fines, imprisonment, etc.

No jury allowed in any trial. fense. *And provided further*, That no jury shall be allowed in any trial for the violation of an ordinance of said city.

Act Mar. 11th, 1836, ante, p. xxxv., § 50. Amended act Mar. 12th, 1881, seq. pp. lxxvi. to lxxviii. Regulations to prevent accidents by fire, etc. Fire companies. Storage of gunpowder, etc. Transporting same. License for sale of such articles. License on insurance agency.

“50. The council shall have authority to ordain and enforce such regulations as shall be necessary or proper to prevent accidents by fire within said city, or to secure the inhabitants thereof, as far as practicable, from injury thereby, and specially to provide for the establishment, organization, equipment, and government of fire companies in said city; and to provide suitable magazines, or places in or near said city for the storage of gunpowder, petroleum, or other combustible and dangerous articles; and to ordain and enforce such regulation as they may deem necessary respecting the place and manner of keeping and transporting the same. And the council shall also have authority to assess by ordinance and collect an annual license for the sale of all such articles. The council shall further have authority to assess by ordinance and collect an annual license on each agency of any foreign insurance company doing business within the city.

Act Mar. 11th, 1836, ante, p. xxxv., § 51. Ordinances against thieves, robbers, etc. Gaming, lewdness, etc., and cruelty to animals.

“51. The council shall have authority to pass such ordinances as shall be necessary or proper to secure the inhabitants of said city against thieves, robbers, burglars, and all other persons violating the public peace of said city; for the suppression of riots and gaming, and for the prevention and punishment of lewd, lascivious, indecent or disorderly conduct, and cruelty to animals, in said city.”

Inconsistent acts repealed. 2. That so much of said act as comes within the purview of this act, be and the same is hereby repealed.

AN ACT

To amend and re-enact section fifty of an act of the general assembly of the state of Virginia, passed March eleventh, one thousand eight hundred and thirty-six, entitled “an act to incorporate the city of Wheeling, in Ohio county,” as amended and re-enacted by chapter sixty-two of the acts of the legislature of West Virginia, of the year one thousand eight hundred and seventy-nine.

(Passed March 12th, 1881.)

Be it enacted by the Legislature of West Virginia:

1. That section fifty of an act of the general assembly of the state of Virginia, passed March eleventh, one thou-

and eight hundred and thirty-six, entitled "an act to incorporate the city of Wheeling, in Ohio county," as amended and re-enacted by chapter sixty-two of the acts of the legislature of West Virginia, be amended and re-enacted so as to read as follows:

50. The council shall have authority to ordain and enforce such regulations as shall be necessary or proper to prevent accidents by fire within said city, or to secure the inhabitants thereof, as far as practicable, from injury thereby; and specially to provide for the establishment, organization, equipment and government of fire companies in said city; and to provide suitable magazines, or places in or near said city for the storage of gunpowder, petroleum, or other combustible and dangerous articles; and to ordain and enforce such regulations as they may deem necessary respecting the place and manner of keeping and transporting the same. And the council shall also have authority to assess, by ordinance, and collect an annual license tax for the sale of all such articles. All insurance companies, not incorporated under the laws of this state, engaged in the business of insurance in said city, may be required by the council thereof, by ordinance, to pay to said city for the privilege of transacting insurance business therein, a percentage upon their receipts for premiums of not more than one-half of one per cent. of the gross amount of premiums received by them for insurance in said city during the half year ending on every first day of July and January; and said council may, by ordinance, prescribe that no person shall act in said city as officer, agent, broker, solicitor, or otherwise, for or on behalf of any such company in the transaction of insurance business, or soliciting risks, until he shall have obtained from the clerk of the city a certificate of authority so to do, which certificate the clerk shall issue upon application, that every person to whom such certificate shall be granted shall, on or before the fifteenth day of July and January in each year, render to the said clerk a full, true and just account, verified by his oath, of all such premiums, which, during the half year ending on every first day of July and January preceding such report, shall have been received by him, or any other person for him, in behalf of any such company, or by the company directly or through any other person, for risks, procured by him, unless the same are accounted for in the account rendered under such ordinance by some other officer, agent, broker or solicitor for the company in said city; and that the books in the possession or under the control of the person having such certificate, showing the business

Act Mar. 11th, 1886, ante, p. xxxv., § 50.
Mar. 8th, 1879, ante, p. lxxvi, § 50.

Power of council to ordain and enforce regulations to prevent accidents by fire, &c.
To organize fire companies, etc.

Provide magazines for storage of gunpowder, etc.

License for sale thereof.

Tax on foreign insurance companies.

Certificate of authority to officer, agent, etc., of foreign insurance company.

When and what account to be rendered by officer, agent, etc.

Exception.

done by or through him in said city for any such company, shall be open to the examination of such officers of the city or committee of the council as the council shall designate for the purpose. Said council may, by ordinance, further require that every person holding such certificate, when he renders such account, shall pay over to the receiver of the city of Wheeling the amount for which the company which received the premiums mentioned in such account is liable on account of such premiums, under any ordinance passed by the council of said city by virtue hereof. And such amount may also be recovered of such company or the person rendering such account, by action in the name and for the use of the city, as for money had and received for its use. Said council may further, by ordinance, provide that if such accounts be not rendered, and moneys paid, on or before the fifteenth day of July and January in each year, it shall be unlawful for the company in default to transact any insurance business in said city until such accounts are duly rendered and the money due from such company fully paid.

Payment of tax, when and how made.

How recovered

Power of council to prohibit insurance company in default from transacting insurance, etc., until tax paid.

AN ACT

To amend and re-enact the thirty-fifth section of an act of the general assembly of Virginia, entitled "An act to incorporate the city of Wheeling, in the county of Ohio," passed March eleventh, one thousand eight hundred and thirty-six, amended and re-enacted by an act of said general assembly, passed March the fourth, one thousand eight hundred and fifty-four, and further amended and re-enacted by chapter twenty-four of the acts of the legislature of West Virginia of one thousand eight hundred and seventy-one.

(Passed March 14th, 1881.)

Be it enacted by the Legislature of West Virginia:

Acts Mar. 11th, 1836, ante, p. xxx., § 25.
 Mar. 14th, 1854, ante, p. xlix.
 Feb. 10th, 1871, ante, p. lxiii.

1. That section thirty-five of an act of the general assembly of Virginia, entitled "An act to incorporate the city of Wheeling, in the county of Ohio," passed March eleventh, one thousand eight hundred and thirty-six, amended and re-enacted by an act of the said general assembly, passed March fourth, one thousand eight hundred and fifty-four, and further amended and re-enacted by

chapter twenty-four of the acts of the legislature of West Virginia of one thousand eight hundred and seventy-one, be amended and re-enacted so as to read as follows:

35. The council shall have exclusive authority within said city, to grant or refuse license to the keepers of ordinaries, hotels, inns and taverns, houses of public or private entertainment, boarding-houses, public eating-houses, coffee-houses, places at which spirituous liquors, wine, porter, ale or beer, intoxicating cider, or any drinks of a like nature shall be sold, places of public amusement, and boarding stables or stables for keeping and feeding horses, mules and cattle, for a compensation. *Provided, however,* That persons keeping an inn, hotel or tavern, with stabling attached, shall not be required to have any other license than the license to keep an inn, hotel or tavern, by reason of their keeping and feeding horses, mules and cattle for compensation. Said council shall further have authority to regulate the manner in which such houses or places shall be kept, and to levy and collect taxes thereon, in addition to any tax which is or shall be payable on the same to the state or the county of Ohio. Said council shall still further have exclusive authority within said city to grant or refuse license to sell spirituous liquors, wine, porter, ale or beer, intoxicating cider, or any drink of a like nature, and no person without such license shall sell, offer or expose for sale, spirituous liquors, wine, porter, ale or beer, intoxicating cider, or any drink of a like nature, within said city; and the council shall also have authority to assess, by ordinance, and collect a license tax from every person licensed under the authority of this section, in addition to other taxes imposed upon him or his property.

Authority of council to grant or refuse license as to hotels, etc.

Proviso as to hotels, etc., with stabling attached.

Further authority to regulate manner of keeping such houses etc., and to levy and collect taxes thereon. Authority to grant or refuse license to sell spirituous liquors, etc.

No person to sell without license.

Authority to assess and collect license tax.

AN ACT

To amend and re-enact sections one and two of chapter twenty-one of the acts of one thousand eight hundred and seventy-nine, authorizing the levy of a special tax by the council of the city of Wheeling for paving and macadamizing, so as to authorize such tax to be also expended for construction of sewers.

(Passed March 14th, 1881.)

Be it enacted by the Legislature of West Virginia:

1. That sections one and two of chapter twenty-one of

lxxx ACTS OF THE LEGISLATURE OF WEST VIRGINIA.

Acts Mar. 3d, 1879 amended. the acts of one thousand eight hundred and seventy-nine, authorizing the levy of a special tax by the council of the city of Wheeling, for paving and macadamizing, be and the same are hereby amended and re-enacted so as to read as follows :

Acts Mar. 3d, 1879, ante, pp. lxxiv. and lxxv. Council authorized to levy special tax. Amount limited For what purpose used. SEC. 1. The council of the city of Wheeling is hereby authorized, in addition to their present authority to levy taxes, to assess, levy and collect an annual tax, for the purposes hereinafter named, on the personal property and real estate in said city subject to taxation by said city, not to exceed, in any year, ten cents on every hundred dollars of the assessed valuation thereof; the money so collected shall be used for the purpose of paving or macadamizing streets or alleys in said city that have not been heretofore paved, or for the construction of sewers in said city, and such money shall, in no case, be used to pay for repairs to old paving or macadamizing, or to old sewers, or for anything except new paving or macadamizing, or new sewers.

Acts Mar. 3d, 1879, ante, p. lxxv. Money so collected to be in addition to that assessed, etc., under present laws. Power to tax, an additional power. SEC. 2. The money collected by virtue of this act shall be assessed, levied and collected in addition to the money assessed, levied and collected for other purposes by said city under present laws; and the power to tax hereby conferred is additional to the taxing power heretofore possessed by said city.

AN ACT

In relation to the paving and macadamizing of streets and alleys in the city of Wheeling, and the construction of sewers therein, and authorizing the assessment and collection by said city, of the value of the special benefits to real estate from the same.

(Passed March 14th, 1881.)

Be it enacted by the Legislature of West Virginia:

See act of Mar. 11th, 1836, ante, pp. xxxii, and xxxiv, §§ 45 and 47. See act of Feb. 24th, 1881. Petition to have street or alley paved, etc., and sewer constructed; who to sign. 1. Whenever the owners of three-fourths of the lots of ground fronting or abutting upon the sides of any street or alley in said city between any two cross streets, shall, by petition in writing, ask the council of the city of Wheeling to have the street or alley paved or macadamized, and a sewer constructed in such street or alley from one of such cross streets to the other, or to have such paving or macadamizing done without the construction of a sewer, or such sewer constructed without such paving

or macadamizing, the council shall proceed to consider the petition, and may grant the prayer or request of the petitioner or refuse the same, if in the opinion of the council the work asked for should not be done. If the petition is approved, and the request thereof granted, the council shall cause the city clerk to advertise for bids for the performance of the work, and shall award the contract therefor to the lowest bidder deemed by them responsible. Before proceeding with the work, the successful bidder shall enter into a written contract with the city, with stipulation and agreements therein approved by the council; and shall give bond, payable to the city, in a penalty satisfactory to the council, and conditioned for the faithful performance and fulfillment by such bidder of his contract.

Petition may be for paving, etc., without sewer, or for sewer without paving, etc. Council may grant or refuse prayer of petition. If petition approved, etc., what then. Contract and bond of contractor.

2. As soon as the work so ordered is completed the joint standing committee on streets, alleys and grades of said council, (a quorum or more thereof may do any act that the committee could do hereunder), or such other persons, not exceeding three, as the council in any case shall appoint for the purpose, shall proceed, without delay, to examine the locality where the work has been performed, as well as each lot, part of a lot, and tract or parcel of land in said city specially benefited thereby, and to determine as near as practicable how much each lot, part of lot, tract or parcel of land aforesaid is specially benefited by the work done, and to assess the amount of such special benefit to each lot, part of a lot, tract or parcel of land so specially benefited; the total amount of such special benefits, however, not to exceed the total cost of such work; if the amount of such special benefits shall be less than the cost of such work, they shall report that fact to the city council, and such deficiency shall be paid out of funds collected under the authority of chapter twenty-one of the acts of the legislature of West Virginia, of one thousand eight hundred and seventy-nine, or out of other funds raised by taxation of real and personal property in said city.

Authority to assess the value of special benefits to real estate from such improvements, how and when.

Total amount of special benefits not to exceed cost of work. If amount of special benefits be less than cost of work, how deficiency paid.

3. Said committee or other persons appointed by the council as aforesaid, shall report to the council a schedule of the real estate in their judgment specially benefited by such work, in which shall appear the owner's names, as far as known to them; a description of the real estate benefited sufficiently accurate for identification; the valuation thereof and the amount assessed as special benefits; which schedule shall be filed in the office of the city clerk as soon as completed; said clerk shall present such sched-

Report to be made to council. What such report to contain.

When schedule filed.

Clerk to present schedule to council; when.

Council may correct the same.

When approved decision final. Copy of schedule to be delivered by clerk to collector. Collector charged with amount of such benefits

Lien for such apportionment and interest.

Failure, etc., of owner to pay assessment within sixty days; what then. Assessment to bear interest.

Power of collector to collect amounts assessed.

How city may enforce lien.

When and how owner of real estate so assessed, allowed to pay assessment by instalments, and have time extended.

Duty of council to have paved, etc., all inter-sections, etc.

ule to the council at its next meeting after the same is so filed, and the council may increase or diminish the amount assessed for benefits, upon any or all of such real estate, and correct the said schedule in any respect it may deem it erroneous. Whenever the council shall have approved said schedule, or amended and approved same as amended, its decision shall be final, and the clerk of the city shall deliver to the collector of said city, a copy of such schedule as approved by the council, certified by him to be correct, and shall charge said collector, upon the books of the city, with the gross amount of such benefits as shown by said schedule as approved.

4. There shall be a lien upon the real estate assessed for benefits under this act from the date of the making by the city of the contract for the work, for the amount of such assessment thereon, and any interest that may accrue thereon; and if the owner of any of the real estate so assessed shall fail or neglect to pay to said collector the amount of the assessment upon his property within sixty days after the said schedule has been placed in said collector's hands for collection, his assessment shall bear interest from the time such schedule was placed in said collector's hands, at the rate of ten per centum per annum, and such collector shall have the same power and authority to collect such amounts so assessed for special benefits as the sheriffs in this state now have by law for the collection of state and county taxes. The city may enforce said lien, however, if it so desires by a suit in equity in its name in any court of record in Ohio county, and in such suit the land incumbered by such lien may be sold and the lien and costs satisfied out of the proceeds of sale.

5. If the owner of any real estate so assessed for special benefits shall, on or before the date the schedule aforesaid is approved by the council, make a written application to the council to be allowed to pay his assessment by instalments, and to have time for the payment thereof beyond the time that the collector would allow him, the council may, in its discretion, grant such applicant his request, provided the payment of such assessment, and the interest thereon at the rate aforesaid, is amply and fully secured to the city by such applicant in a manner satisfactory to the council; and such applicant's assessment shall not be collected by the collector, if his application is granted and his assessment so secured.

6. It shall be the duty of the council whenever any street or alley shall be paved or macadamized, or any sewer constructed under the provisions of this act, to pave

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or macadamize all intersections of the streets and alleys so paved or macadamized with cross streets and alleys; and to construct sewers through such intersection where a sewer has been constructed hereunder.

Also, to construct sewers through such intersections.

7. Nothing herein shall be construed as depriving the said city council of the right to cause any of the streets or alleys of the city to be paved or macadamized, or sewers constructed therein, either with or without a petition therefor, and to pay for same out of the funds of said city, the same as though this act had never passed.

Council may pave, etc., any street or alley, and construct sewers with or without petition therefor. How paid for.

8. All acts and parts of acts in as far as they are in conflict with this fact are hereby repealed.

Conflicting acts repealed.

AN ACT

In relation to the government of the city of Wheeling.

(Passed February 27th, 1882.)

Be it enacted by the Legislature of West Virginia:

1. That there shall be elected by the council of the city of Wheeling, in joint session, a quorum of each branch being present, at their first meeting after this act takes effect, or as soon thereafter as practicable, and thereafter at their first meeting after every regular charter election, or as soon thereafter as practicable, in like joint session, three water commissioners, and three members of the board of public works; those elected at the first meeting after the next regular charter election to hold their respective offices for the term of two years, and the terms of office of those elected at the first meeting after this act takes effect to terminate with the first meeting of council, after the next regular charter election, but all of said officers shall continue in office until their successors are elected and qualified.

Water board.

Public works board.

2. The city water board, composed of the water commissioners, shall have, under rules and regulations to be adopted by the board and reported to and approved by council, the control, supervision and management of the water works and running of the same, of the reservoir and pipes, repairs, improvement and additions thereto, of the supply of water to the consumers, for such compensation as may be fixed by such rules and regulations, shall collect the revenues from water rents and otherwise from water or the works, and disburse the same, and shall employ and discharge at their discretion a superintendent and such

Water board, duties, &c.

Compensation of commissioners.

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Salaries. other officers and employes as may be necessary; such officers and the salaries to be paid them to be approved and confirmed by council. But the present superintendent of the water works shall continue in office, at his present salary, until the first meeting of the city council after the next regular charter election, but he shall make out of his said salary the same payments to subordinate employes as at present, and during the remainder of his term of office shall be subject to the general supervision, control and direction of, and shall report to the water board in the discharge of his duties as heretofore prescribed.

Board of public works, duties, &c. 3. That the board of public works, under rules and regulations to be adopted by them, and approved and confirmed by the council, shall have the management of and contract for the improvement, cleansing, care and repairs of the sewers, streets and alleys of the city, and employ and discharge at their discretion, a city engineer, and such other officers and employes as may be necessary, prescribe their duties, and have the control and supervision thereof; shall supervise the execution of such contracts and the disbursement of all moneys for or upon the sewers, streets and alleys; such officers and the salaries to be paid them, to be approved and confirmed by council. But the present street commissioner and city surveyor shall continue in office until the first meeting of council after the next regular charter election, at their present rates of compensation, and shall be subject to the general supervision, control and direction of, and shall report to, the board during the remainder of their terms of office, in the discharge of their duties, as heretofore prescribed.

City engineer and other officers. Salaries. Gas trustees, election. 4. At the expiration of the term of two years for which the present trustees of the gas works of the city of Wheeling were elected, the council of the city, in like joint session, shall elect three officers, to be called trustees of the gas works, who shall hold their office for the term of two years, or until their successors are elected and qualified.

Term of office. Gas trustees; duties, &c. 5. The said trustees shall have, under rules and regulations to be adopted by them and approved by council, control, supervision and management of the gas works, pipes and connections, of all necessary repairs, of the purchase of all necessary materials, of the supply of gas to consumers, of the collection of the revenues arising from the works and from gas supplied, of the disbursements of the same, and shall employ and discharge at their discretion a superintendent and such other officers and employes as may be necessary, such officers and the salaries to be paid them to be approved and confirmed by

Collection and disbursement of revenues.

Superintendent and other officers; how appointed and

IN RELATION TO GOVERNMENT OF CITY OF WHEELING. LXXXV

council, and shall, under such rules and regulations, pre-^{their salaries.}scribe the duties and have the supervision and direction of all such officers and employes.

6. Council may, at any time, amend, modify or annul^{Council may amend, &c., rules.} any of said rules or regulations.

7. The said members of the board of public works,^{Salaries.} commissioners and trustees shall each receive for his services a salary of one hundred dollars per year.

8. Council shall require and take from such of the offi-^{Official bond.}cers created and provided for by this act, and employes mentioned or referred to therein, as they shall deem proper, such bonds, obligations, or other writing, payable to the city, as they shall consider necessary or proper, conditioned for the faithful performance of their official duties.

9. The oath prescribed by section five of article four of^{Oath.} the constitution of the state of West Virginia, shall be taken by all officers created or provided for by this act, before entering on their official duties.

10. Said boards and trustees shall, once in every three^{Reports to council.} months, or oftener, if so required by council, report to council a full statement of their receipts and disbursements made by them during the three months next preceding such report, or since their last report or longer.

11. Such ordinances may be passed from time to time^{New ordinances may be passed.} by council, not inconsistent with this act, in reference to the matters and things committed to the charge of such boards and trustees, and with reference to said boards and trustees as may be necessary or expedient.

12. No member of the city council shall hereafter be^{Member of council ineligible.} eligible for election or appointment as a trustee, commissioner or member of the board of public works, and if any such trustee, commissioner or member of the board of public works shall hereafter become a member of the city council, his office as such trustee, commissioner or member of the board of public works shall be thereby vacated.

13. No member of said boards, nor any such trustee or^{No member to be interested in contract.} officers appointed by, and no person employed by said boards or trustees shall be interested directly or indirectly, in any contract, bargain, sale or agreement by or to said boards or trustees, or any of them, other than for his own wages as an employe, under a penalty of a fine of not less^{Penalty.} than twenty-five dollars nor more than one hundred dollars, or by imprisonment, with labor without compensation at any of the public works or improvements under-

taken or to be undertaken by said city, for any period not exceeding one year, or by both such fine and imprisonment at the discretion of the judge of the municipal court of Wheeling or of the jury in the appellate court. Any violation of this section shall be punished by a prosecution in the same manner as for a violation of a city ordinance before the municipal court of Wheeling on the police side thereof, but no jury shall be allowed in the trial for such violation. An appeal shall lie in such cases as in case of a violation of a city ordinance, and on conviction the office or employment of the offender shall be forfeited and be thereby vacated, and he shall be forever ineligible for such office and for employment by such boards or trustees.

Prosecution.

Appeal.

Effect of conviction.

Repeal of inconsistent acts.

2. All acts and parts of acts inconsistent with this act are hereby repealed.

AN ACT

To amend and re-enact the first section of an act of the general assembly of Virginia, passed March ninth, one thousand eight hundred and thirty-eight, entitled "an act to amend the act, entitled 'an act to incorporate the city of Wheeling, in Ohio county.'"

(Passed March 24th, 1882.)

Be it enacted by the Legislature of West Virginia:

1. That the first section of an act of the general assembly of Virginia, passed March ninth, one thousand eight hundred and thirty-eight, entitled "an act to amend the act, entitled 'an act to incorporate the city of Wheeling, in Ohio county,'" be amended and re-enacted so as to read as follows:

1. The mayor of the city of Wheeling, in the county of Ohio, shall be elected from among the citizens thereof, qualified to vote for mayor and members of council, at the regular biennial charter election held in and for said city, by the voters qualified to vote at such elections, and shall hold the office for the term of two years, and until his successor shall be qualified. It shall be the duty of the mayor of said city to cause all the laws and ordinances thereof to be enforced, to keep the seal of said city, and to perform all such other duties as the council may ordain, not inconsistent with the laws and constitutions of this state or of the United States. He shall also preside at the meetings of the first branch of the council, but shall in no

Act Mar. 11th, 1836, ante, p. xxxviii., § 65.
Act Mar. 9th, 1838, ante, pp. xii. and xlii., § 1.
See act March 3d, 1870, ante, pp. ix. and lxi., § 2.
Mayor.
Election.
Term of office and his duties.

case be entitled to vote in the deliberations of said branch, except when there is a tie; he shall then give the casting vote; he shall also receive out of the treasury of said city such reasonable compensation and perquisites as the council may ordain, but in no case shall his salary and perquisites be increased or diminished during the time for which he shall be elected. When the said office shall be vacant from refusal to serve, death, resignation, or any other cause, the council shall have power to fill the vacancy for the residue of the term by an election in joint session, to the office, of a citizen of said city, qualified to vote for mayor and members of council. When any oath may lawfully be administered, or affidavit or deposition taken within said city, it may be done by the mayor thereof. Such mayor shall also have authority to take, within said city, acknowledgments of deeds and other writings and the privy examination of married women respecting the same, and to certify such acknowledgments and privy examination under his signature, and the seal of the city, the certificate, if the instrument is to be recorded in this State, to conform in effect so far as applicable to the form prescribed for such certificates when given by a notary public, but it must show that the acknowledgment or acknowledgment and privy examination were taken by such mayor within said city, and are certified under his signature and the seal of said city. Any clerk of the county court in any county in the state shall admit any writing to record, that may by law be recorded, as to any person whose name is signed thereto and whose acknowledgment and privy examination relative to the same is certified by said mayor as aforesaid. The mayor shall receive the same fees for administering oaths, taking depositions and acknowledgments and certifying the same, as a notary public for similar service.

Mayor's vote in council.

Compensation.

Vacancy, how filled.

Mayor may administer oaths, take acknowledgments of deeds, &c.

Fees.

2. All acts and parts of acts, in so far as in conflict with this act, are hereby repealed. Acts repealed.

AN ACT

To amend the charter of the city of Wheeling.

(Passed March 24th, 1882.)

Be it enacted by the Legislature of West Virginia:

1. That the twelfth, fifteenth, eighteenth, twenty-seventh and fiftieth sections of an act of the general assembly of Virginia, entitled "An act to incorporate the city of" Act of 1836 amended.

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Wheeling, in Ohio county," passed March eleventh, one thousand eight hundred and thirty-six, be amended and re-enacted so as to read as follows:

Act Mar. 11th, 1836, ante, pp. xxv. and xxvi., § 12. Amended Mar. 12th, 1891. Wards. Representation Who to vote for members of council.

12. The said city shall be divided into not less than four nor more than eight wards, and the representation of each ward in the second branch of the council shall be as nearly as practicable in proportion to the number of persons residing therein; and the members from each ward shall be elected by the voters of said city who shall at the time of the election be actual residents of such wards, except that freeholders, qualified as voters of said city, shall be entitled to vote in any one ward in which the freehold estate, in right whereof they vote, is situated.

Act Mar. 11th, 1836, ante, p. xxvii., § 15. Eligibility of members of council.

15. No person shall be eligible as a member of the council of said city from any ward thereof, unless he is a resident of the ward for which he is chosen. The removal of a member of council from the ward he represents shall vacate his office as such member.

Act Mar. 11th, 1836, ante, p. xxvii., § 18. Amended Mar. 12th, 1891. Enumerations.

18. The council of said city shall, before the first day of January, one thousand eight hundred and eighty-three, and once at least in every tenth year thereafter cause enumerations to be made of the number of persons residing in the several wards of said city, and having fixed the number of members of which their representation in the second branch of the council shall thereafter consist (the whole number of members in said branch not to exceed thirty, however), they shall apportion the number of members among the several wards according to the principle of representation hereinbefore fixed.

Apportionment of representation.

Act Mar. 11th, 1836, ante, p. xxviii., § 27. Journal of proceedings.

27. Both branches of the council shall keep a journal of their proceedings, which shall at all times be open to the inspection of any voter of said city; and at the request of any two of the members present, the ayes and noes on any question put shall be taken and entered in the journal.

Act Mar. 11th, 1836, ante, p. xxxv., § 50. Mar. 8th, 1879, ante, p. lxxvi., § 50. Mar. 12th, 1881, ante, pp. lxxvii. and lxxviii., § 50. Prevention of accidents by fire, &c.

50. The council shall have authority to ordain and enforce such regulations as shall be necessary or proper to prevent accident by fire within said city, or to secure the inhabitants thereof as far as practicable, from injury thereby; and specially to provide for the establishment, organization, equipment and government of a fire department, or of fire companies in said city, or both; and to provide suitable magazines, or places in or near said city for the storage of gunpowder, petroleum, or other combustible and dangerous articles; and to ordain and enforce such regulations as they may deem necessary respecting the place and manner of keeping and transporting the same.

And the council shall also have authority to assess, by ordinance, and collect an annual license tax for the sale of all such articles. All insurance companies, not incorporated under the laws of this state engaged in the business of insurance in said city, may be required by the council thereof, by ordinance, to pay to said city for the privilege of transacting insurance business therein, a percentage upon their receipts for premiums of not more than one per cent of the gross amount of premiums received by them for insurance in said city, during the half year ending on every first day of July and January; and said council may, by ordinance, prescribe that no person shall act in said city as officer, agent, broker, solicitor or otherwise, for or on behalf of any such company in the transaction of insurance business, or soliciting risks, until he shall have obtained from the clerk of the city a certificate of authority so to do, which certificate the clerk shall issue upon application; that every person to whom such certificate shall be granted shall, on or before the fifteenth day of July and January, in each year, render to the said clerk a full, true and just account, verified by his oath, of all such premiums which during the half year ending on every first day of July and January preceding such report, shall have been received by him, or any other person for him, in behalf of any such company, or by the company directly or through any other person, for risks, procured by him, unless the same are accounted for in the account rendered under such ordinance by some other officer, agent, broker or solicitor for the company in said city; and that the books in the possession or under the control of the person having such certificate, showing the business done by or through him in said city for any such company, shall be open to the examination of such officers of the city or committee of the council as the council shall designate for the purpose. Said council may, by ordinance, further require that every person holding such certificate, when he renders such account, shall pay over to the receiver of the city of Wheeling, the amount for which the company which received the premiums mentioned in such account is liable on account of such premiums, under any ordinance passed by the council of said city by virtue thereof. And such amount may also be recovered of such company or the person rendering such account, by action in the name and for the use of the city, as for money had and received for its use. Said council may further, by ordinance, provide that if such accounts be not rendered, and moneys paid, on or before the fifteenth day of July and January in each year, it shall be unlawful for the com-

Insurance companies; provisions in relation to.

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pany in default to transact any insurance business in said city until such accounts are duly rendered and the money due from such company fully paid.

Acts repealed. 2. All acts and parts of acts in so far as in conflict with this act are hereby repealed.

Commencement The foregoing act takes effect at the expiration of ninety days after its passage.

AN ACT

To revive, amend and re-enact the fourteenth section of the act of the general assembly of Virginia, entitled "an act to incorporate the city of Wheeling, in Ohio county," passed March eleventh, one thousand eight hundred and thirty-six.

(Passed March 24th. 1882.)

Be it enacted by the Legislature of West Virginia:

Act of Mar. 11th, 1836, amended.

1. That the fourteenth section of the act of the general assembly of Virginia, entitled "an act to incorporate the city of Wheeling, in Ohio county," passed March eleventh, one thousand, eight hundred and thirty-six, be revived, amended and re-enacted so as to read as follows:

Act Mar. 11th, 1836, ante, p. xxvi, § 14. Elections.

14. Elections for mayor, members of both branches of the council, and such other officers of the city as are by law required to be elected by the people, shall be held at such places in said city, under the superintendence of such persons and subject to such regulations, (not inconsistent with the charter of the city or laws of this state), as are now provided in relation to such elections by ordinance passed by the council, or as such council may hereafter from time to time ordain. All other elections or votes on any question by the qualified voters of said city, shall be held, or taken at such places, under the superintendence of such persons, and subject to such regulations, (not inconsistent with the charter of the city or laws of this state), as such council has or shall from time to time hereafter ordain.

Acts repealed. 2. All acts and parts of acts, in so far as they are in conflict with this act, are hereby repealed.

Commencement The foregoing act took effect from its passage.

AN ACT

To amend an act of the legislature of West Virginia, entitled "an act to amend the charter of the city of Wheeling," passed March third, one thousand eight hundred and seventy.

(Passed March 25th, 1882.)

Be it enacted by the Legislature of West Virginia:

1. That the second and third sections of an act of the legislature of West Virginia, entitled "an act to amend the charter of the city of Wheeling," passed March third, one thousand eight hundred and seventy, be amended and re-enacted so as to read as follows:

Act of Mar. 3d, 1870, amended.

2. The mayor, city clerk, city sergeant and wharf-master shall be elected by the qualified voters for the term of two years, and all other officers deemed necessary by the city council shall be appointed or elected by the council as provided in the next section of this act, unless otherwise provided by law. The city sergeant (and deputies who have served under him during the preceding year) shall be ineligible for re-election after two successive terms, until one term shall have intervened; and the powers of the city sergeant and his deputies under the ordinances of the city shall extend to and embrace the Peninsula cemetery and the approaches thereto. Said city may enforce its lien on real estate for the taxes or other assessments thereon by a sale thereof under a decree in a suit in equity in any court of record in the county of Ohio or city of Wheeling. The office of city treasurer is and shall remain abolished.

See acts Mar. 11th, 1836, ante, p. xxxviii., § 65, p. xxxix., § 67. Act Mar. 9th, 1838, ante, pp. xli. and xlii., § 1. Act Feb. 25th, 1856, ante, p. 1. Mar. 3d, 1870, ante, pp. lx. and lxi., § 2. Election of mayor, &c. Powers of sergeant extended.

City taxes enforced.

City treasurer abolished.

3. The council shall have authority, unless otherwise provided by law, to provide, by ordinance, for the appointment or election by the council of such officers, whose election or appointment is not provided for by law, as shall be necessary or proper to carry into full effect any authority, power, capacity or jurisdiction which is or shall be vested in the said city, or in the council, or in the mayor or aldermen thereof, to grant to the officers so appointed or elected by the council the powers necessary or proper for the purposes above mentioned; to define their duties; to fix their terms of office; to allow them reasonable fees and compensation, and to require and take of all or any of them such bonds, obligations or other writings as they shall deem necessary or proper to insure the proper performance of their several duties. All officers so ap-

Acts Mar. 11th, 1836, ante, p. xxix., § 31. Mar. 3d, 1870, ante, p. lxi., § 2. Officers elected by council.

Duties, &c.

Removal.

- pointed or elected by the council may be removed from office at the pleasure of the council, and unless their terms of office be otherwise fixed by ordinance, they shall be considered as holding their respective offices at the pleasure of the council. The term of every officer of the city shall continue, unless the office be vacated by death, resignation, removal from office or otherwise, until his successor is elected or appointed and qualified, notwithstanding anything in the charter of said city, or any law applicable thereto, or in any ordinance thereof to the contrary.
- Term.**
- Acts repealed.** 2. All acts and parts of acts, in so far as they conflict with this act are hereby repealed.
- Commencement** The foregoing act takes effect from its passage.

AN ACT

To authorize and empower the council of the city of Wheeling to reduce and contract the corporate limits of the city of Wheeling.

(Passed February 19th, 1888.)

Be it enacted by the Legislature of West Virginia :

- Change of boundaries.** 1. Any five or more freeholders residing in the city of Wheeling may file with the council thereof their petition in writing, setting forth by metes and bounds the proposed change to contract the boundaries of the city of Wheeling. The council shall thereupon order the petition or so much thereof as may be necessary to give notice of its contents, to be published once a week for two successive weeks in some newspaper printed in the city of Wheeling.
- Notice.** 2. At the next regular meeting of the council, after notice has been published as provided in the preceding section, the council of the city of Wheeling shall proceed to vote upon the change proposed by the petition, and if two thirds of all the members elected to each branch of such council shall be in favor thereof, the corporate limits of such city shall be reduced and contracted as asked in the said petition. Such change, however, shall not take effect until a copy of the petition with the vote thereon, certified under the hand of the mayor with the seal of the city of Wheeling affixed thereto, shall be filed in the office of the secretary of state. And no reduction or contraction under this act shall exempt or release any property, ex-
- Change to take effect.**

cluded from the corporate limits, from liability for the payment of a just and proper proportion of any debt or indebtedness of said city existing at the time of such reduction or contraction.

3. At the beginning of each regular session of the legislature, the secretary of state shall deliver to the clerk of the house of delegates accurate copies of all petitions with the votes thereon, filed in his office under the preceding sections, not before reported by him, and it shall be the duty of such clerk to cause the same to be printed with the acts of the session.

Duty of secretary of state.

4. All acts and parts of acts inconsistent with this act are hereby repealed.

Acts repealed.

The foregoing act took effect from its passage.

Commencement

AN ACT

To amend and re-enact section forty-seven of the "act to incorporate the city of Wheeling, in Ohio county," which section relates to sidewalks.

(Passed February 23d, 1888.)

Be it enacted by the Legislature of West Virginia:

1. That section forty-seven of the act of the general assembly of Virginia, entitled "an act to incorporate the city of Wheeling, in Ohio county," passed on March eleventh, one thousand eight hundred and thirty-six, be amended and re-enacted so as to read as follows:

Act Mar. 11th, 1836, ante, p. xxxiv., § 47. amended.

47. It shall be lawful for the council to establish the width of any sidewalk along any street, alley or public square, or part thereof, and cause to be set, or reset, the curbing thereon, and to require that when any such street, alley or public square or part thereof, shall be prepared for the laying of sidewalks, by the setting of curbstones by the city, the owners of any grounds fronting on such street, alley or square, shall properly pave the sidewalks adjacent to their property; and in case of the failure or refusal of any such owner to so pave the same, to cause the same to be properly paved by the city, and to levy and collect from such owner the cost of the paving adjacent to his property, or where the cost cannot be conveniently ascertained, to levy and collect a special tax to defray the expense of such paving, upon the owners of such adjacent ground, who fail to pave as required, by an assessment

Sidewalks, alleys and curbs.

Expenses of paving.

upon each, proportioned to the number of front feet which he shall own. The board of public works shall have power, in like manner, to require the owners of property adjacent to any paved sidewalk, whether heretofore or hereafter constructed, to keep the same in repair, and in default of their doing so, to cause the same to be repaired, and assess the cost thereof upon such owners. It shall be lawful for the officer authorized to collect any such tax or assessment, to collect the same from the owners of such grounds, or from the persons in the possession or occupancy thereof, or from any of them, by distress and sale in the same manner in which taxes levied for the benefit of the city are authorized to be collected.

Taxes.

Commencement The foregoing act took effect from its passage.

AN ACT

To establish a police court in Wheeling.

(Passed February 22d, 1889.)

Be it enacted by the Legislature of West Virginia:

- Wheeling police court established. 1. There shall be established within the city of Wheeling, in the county of Ohio, a court, with general police jurisdiction, to be called the "Police Court of the City of Wheeling."
- Mayor to be judge of. 2. Besides the other duties of the mayor of the said city of Wheeling, it shall be his duty during his term of office, to act as the judge of the court hereby established, and he is hereby invested with full power, jurisdiction and authority to act as such judge, and to exercise and enforce all and every of the lawful jurisdiction, power and authority conferred by law upon said court.
- Salary of judge. 3. The mayor shall receive from the said city a salary of one thousand dollars, for the performance of his duties as such judge, as may be prescribed by the city council of said city. The council shall have authority to pass all ordinances (not repugnant to the constitution and laws of the United States or of this state) which may be necessary and proper to carry into full effect, any power, authority, capacity or jurisdiction which is or shall be granted to, or vested in, the said city, or in the council or in the court hereby established, or in any officer of said city, and to enforce any or all of their ordinances by reasonable fines and penalties, and by imprisoning the offender or offenders, and by compelling them to labor without compensa-
- Council may put provisions into effect, how
- Enforcement of ordinances.

tion at any of the public works or improvements undertaken or to be undertaken by said city, or by any or all of said modes. *Provided, however,* That no fine shall be imposed exceeding one hundred dollars, and that no person shall be imprisoned or compelled to labor as aforesaid more than one year, for any one offense: *And provided further,* That no jury shall be allowed in any trial for the violation of an ordinance of said city.

Punishment limited.

No jury allowed

4. Where any fine, penalty or punishment may be lawfully imposed for a violation of an ordinance of the city of Wheeling, the said police court, hereby established, shall have full jurisdiction and authority in the case, the proceeding in such case shall be by summons in behalf of the said city, and shall conform to the regulations, so far as they are applicable, respecting civil proceedings before justices of the peace in this state; but the mayor or the acting clerk of the said court may, for good cause shown, by affidavit or otherwise, by endorsement upon such summons, order the defendant or defendants to be arrested and brought before the said court, to be dealt with according to law.

Jurisdiction.

Arrests; how ordered.

5. The said court shall also, within the said city, have the same jurisdiction and power as a justice of the peace, in the said county of Ohio, for the apprehension, commitment, admitting to bail, or for the punishment of any offense, within said city; and in the exercise of such jurisdiction and powers, shall be subject to the same regulations.

Other powers.

6. The council of said city is hereby authorized to appoint some competent person to act during the term of office of each mayor, who shall exercise the jurisdiction of the said court, and act as judge thereof, when the mayor, from sickness or other cause, is incapable of acting, or is absent from the city, or the office of mayor is vacant; such person to be compensated for his services as council shall ordain.

Judge pro tem.

7. The sessions of said court shall be at such times and at such place as the council of said city may by ordinance direct.

Sessions.

8. It shall not be necessary for any proceeding in said court to show the facts authorizing the said court to take jurisdiction thereof, but jurisdiction shall be presumed unless the contrary appears by the record.

Jurisdiction presumed.

9. The said court shall have full power and authority to enforce its orders and judgments, by any process of law which may be necessary and proper for the purpose, and all process, executions and orders of said court shall be

Process, etc.; how executed.

signed by the judge or acting clerk thereof; such process and executions shall be directed to the sergeant of the said city, to be executed by him or one of its deputies; except that the mayor may at any time appoint a special officer to act in any case or to serve any particular process, execution or order. In the execution of the process, orders and executions of said court, the sergeant, deputy or special officer, shall have the same powers and rights, be subject to the liabilities, govern his proceedings by the same rules of law, and receive the same fees, as the sheriff of said county is entitled to for like services, which fees shall be collected by the sergeant, and he shall turn the same over to the city as the ordinances of the city shall provide; but the city shall in no event be liable for any such fees; and the sergeant shall collect all fines imposed by the said court and account for the same to the said city.

Special officers. **Powers of sergeant, etc.; fees.** **Collection of fines, etc.** **Bond of sergeant.** **Liability.** 10. The sergeant of the said city shall give bond to be approved by the said court, in the penalty of ten thousand dollars, made payable to the state of West Virginia, conditioned for the discharge by him of the duties of his office, which bond shall be filed in the office of city clerk of the said city; and the sergeant and his sureties in such bond, shall be liable for the acts and omissions of the said sergeant and of his deputies.

Clerk of court. **Compensation; fees.** **Bond.** **No fees against city.** 11. The city council of said city may appoint one of the officers of the said city to act as clerk of the said court, who shall perform such duties as may be required by the judge of the said court, or be prescribed by rule or order of the said court, or of said council, and the council may provide for the compensation of the said acting clerk as it may deem best. Such acting clerk may charge the same fees for his services as are allowed to be charged by justices of the peace for like services, and any such fees shall be collected by the said acting clerk in like manner as fees of the clerk of the circuit courts are collected, but shall be accounted for by him to the city; and he shall give bond, in the penalty of one thousand dollars, to the city of Wheeling, with sufficient security, to be approved by said court, conditioned to faithfully discharge the duties of said office, and to account for and pay over, all and any money which shall come into his hands by virtue of his said office. *Provided*, No such fees shall be charged against the said city.

Seal: credit to records, etc. 12. A seal shall be provided for the said court by the council of the said city, and the same may be altered or renewed as the said court may direct; full faith and credit

ESTABLISHING A POLICE COURT.

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shall be given to the records of the said court, and the certificates of its judge or clerk, whether the seal of said court be affixed thereto or not, in like manner and with the same effect as if the same were records of a circuit court or certificates of the judge or clerk of a circuit court, similarly authenticated.

13. The mayor of the said city is hereby authorized, Administering oaths. within the said city, to administer and certify oaths in any case in which such oaths may be lawfully administered, and the clerk of the said court shall have like authority to administer oaths within said city.

14. From the judgment of the said court, in any case § 14 amended Feb. 7th, 1891. Appeal to circuit court. involving a greater penalty than a fine of ten dollars, or imposing imprisonment or hard work, or confinement, or involving the validity of an ordinance of the said city, an appeal shall lie as a matter of right, to the circuit court of Ohio county, either on behalf of the defendant or of the city, but no defendant shall be entitled to such appeal, until and unless, he execute before the said court or its clerk, Bond. bond in such penalty as the said court may prescribe, conditioned to perform the judgment and order of the circuit court of said county, made or rendered upon such appeal; every bond shall be with security approved by the said court or its clerk; but in any case in which an appeal is taken or granted on behalf of the city, no bond or security shall be required: *Provided*, That no such appeal shall be granted or lie, unless some counsel practicing in the said Certificate of counsel. circuit court, shall certify that he is satisfied there is an error in law or fact in the said judgment, to the prejudice of the party desiring such appeal. No appeal after two years. No such appeal shall lie after two years from date of any order or judgment desired to be appealed from.

15. Whenever any suit or prosecution shall be instituted before said court, of any violation of the ordinances Judgments for fines, etc. of the city, or for the recovery of any fine, penalty or forfeiture imposed by the ordinances thereof, said court shall have power to render judgment for such fine, penalty or forfeiture, together with the cost of said prosecution.

16. Whenever any suit or prosecution shall be instituted before said court in the name of the city, for any violation of the ordinances thereof, or for the recovery of any fine, penalty or forfeiture imposed by the ordinances thereof, said court shall cause the person or persons at whose instance such suit or prosecution was instituted, to be designated in the record or memorandum of the case, and also upon the warrant or writ issued to arrest or sum- Entry of prosecutor.

mon the person charged, and if the person or persons charged, shall not upon final hearing be convicted, and the said court shall be of opinion that no sufficient or probable cause did exist for the institution of the said suit or prosecution, then judgment for the costs shall be rendered against the person or persons, at whose instance such suit or prosecution was instituted; but if the said court upon final hearing, shall be of opinion, that sufficient or probable cause did exist for the institution of such suit or prosecution, judgment shall be rendered against defendant for all the costs of suit or prosecution.

Liable for costs, when.

When probable cause, not.

Sentence of imprisonment; when may be rendered.

17. Where judgment shall be rendered in favor of the city, for any fine, forfeiture, penalty or costs against any person, for violation of, or offence against any ordinance, and execution shall be issued upon such judgment, and it has been or shall be made to appear by the return of the proper officer, that sufficient effects or property has or can not be found, to discharge such judgment or execution, and if such person shall thereafter be convicted by said court, of any offence against or violation of any ordinance of said city, for which any fine, forfeiture or penalty is, or shall be imposed by ordinance, said former judgment still remaining unsatisfied, in whole or in part, then it shall be lawful for the said court, at its discretion, instead of rendering judgment and issuing execution against the person so convicted, for any fine, forfeiture or pecuniary penalty, to sentence such person to imprisonment, for such subsequent offence, for not less than one day nor more than one year, unless the former judgment and execution, and such other fine, penalty or forfeiture as may be determined in said sentence of imprisonment, shall be sooner paid off and discharged.

Cases in municipal court transferred; civil.

Papers; where filed.

18. All civil suits, actions, motions, causes and proceedings, pending in the present municipal court of Wheeling, at the time when this act takes effect, shall be transferred to the circuit court of the county of Ohio, and be, in the said circuit court docketed, tried and disposed of, and all of the records of the said municipal court, on the civil side thereof, and all the papers filed in the office of the clerk of said municipal court, pertaining to civil business, now or heretofore pending in said court, shall be filed and kept in the office of the clerk of said circuit court, and such clerk shall be the custodian of all such records and papers; and all of the suits or prosecutions for violation of any of the ordinances of said city, pending in said municipal court, at the time this act takes effect, shall be transferred to and disposed of in the police court hereby es-

established, and all records and papers in the office of clerk of said municipal court, with reference to police business thereof, shall hereafter be kept in the clerk's office of the said police court. Prosecutions, . . . etc., transferred

19. An act entitled "An act to establish a court of limited jurisdiction in the city of Wheeling," passed February 24th, 1865, and all and any act or acts amendatory thereof, or of any part thereof, are hereby repealed, and all and any and every act, inconsistent with this act, are hereby repealed. Acts repealed.

The foregoing act took effect at the expiration of ninety days after its passage. Commencement.

AN ACT

To amend and re-enact section fourteen of an act entitled "An act to establish a police court in Wheeling," passed February 22, 1889.

(Passed February 7th, 1891.)

Be it enacted by the Legislature of West Virginia :

1. That section fourteen of an act entitled "An act to establish a police court in Wheeling," passed February 22, 1889, be amended and re-enacted so as to read as follows: Act of Feb. 22d, 1889, ante, p. xcvi., § 14, amended.

14. From the judgment of the said court, in any case involving a greater penalty than a fine of ten dollars, or imposing imprisonment or hard work or confinement; or involving the validity of an ordinance of the said city; an appeal shall lie as a matter of right, to the circuit court of Ohio county, either on behalf of the defendant, or of the city if demanded by any officer of the city; but no defendant shall be entitled to such appeal until and unless he execute before the said police court, or its clerk, bond in such penalty as the said court may prescribe, conditioned to perform the judgment and order of the circuit court of said county, made or rendered upon such appeal. Police court; appeal from. Every bond shall be with security approved by the said court or its clerk; but in any case in which an appeal is taken or granted on behalf of the city no bond or security shall be required. Bond. Every such appeal shall be proceeded in the said circuit court, in the same manner as is provided by law for proceedings in the circuit court in cases appealed from justices of the peace, except that in any case where the penalty imposed is imprisonment, the defendant shall, if he so desire, be entitled to have a jury of twelve impan-

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Certificate of
counsel.No appeal after
one year.

neled to try the issue. *Provided, however,* That no such appeal shall be granted or lie in any case, until and unless some counsel practicing in the said circuit court, shall certify that he is satisfied there is an error in law or fact, in the said judgment, to the prejudice of the party desiring such appeal. No such appeal shall be after one year from the date of any order or judgment desired to be appealed from.

AN ACT

Authorizing the city of Wheeling to generate, distribute, sell and use electricity and gas.

(Passed February 17th, 1891.)

Be it enacted by the Legislature of West Virginia :

Power to gener-
ate, sell, &c.,
electricity and
gas.Assessments for
use of; how
levied and col-
lected.City to pur-
chase property
of Wheeling
Electrical Com-
pany.

1. That the city of Wheeling, in the county of Ohio, a municipal corporation, shall have full power and authority to purchase, erect, build, improve and maintain any and all buildings, works, plants, pipes, pipe-lines, wires, supports and other fixtures to be used in generating, distributing, controlling or otherwise using electricity and the products of any combination or combinations used for producing or generating electricity, and also any building or buildings, works, plants, pipe-lines or other thing necessary to be used in transporting and using gas of any sort, whether made from any substance, or combination thereof, or otherwise obtained, by the said city; and to use, generate, distribute, sell and control electricity and gas for light and heat, and for the purpose of furnishing light for the streets, buildings, stores and other places in and about the said city, and also for the purposes of heating furnaces, factories, buildings and houses. And the said city of Wheeling shall also have power and authority to assess against each and every person, corporation or firm using such electricity or gas, furnished by the said city, such levies or assessments for the use thereof, as the council of the said city may deem proper; which levies and assessments may be collected in the same way as other city taxes are collected, and the payment enforced as the payment of such other taxes is enforced. But the city, before offering to sell or selling any electric light to private consumers, shall purchase so much of the property and assets, not including grounds and buildings, of the Wheeling Electrical Company, as may be intended and used, for generating, distributing, controlling, or using electricity

for lighting purposes, at a price and upon terms to be agreed upon between the city and said company; and in the event of their not being able to agree upon such price or terms, the same shall be determined by the award in writing of a majority, at least, of a board of arbitration selected in the manner following: One member thereof by said city, one by said company, and the third by the two thus chosen. If, however, the said company shall fail to appoint an arbitrator hereunder, within thirty days after notice in writing from the city of its desire that such appointment shall be made, the city shall not be required to purchase any of the company's property, as a condition precedent to its having the right to sell electric light.

Terms, how fixed.

Company's failure to comply; effect of.

AN ACT

To amend and re-enact section forty-five of an act to incorporate the city of Wheeling, in Ohio county, passed by the general assembly of Virginia, March 11, 1836.

(Passed February 24th, 1891.)

Be it enacted by the Legislature of West Virginia:

1. Section forty-five of an act to incorporate the city of Wheeling, in Ohio county, passed by the general assembly of Virginia, on March 11, 1836, is hereby amended and re-enacted so as to read as follows:

Sec. 45 of act of 1836 amended.

45. The council shall have authority within said city to lay out and cause to be opened any streets, walks, alleys, market grounds and public squares, or to extend and widen the same, first having obtained title to the ground necessary for that purpose, and to graduate any street, walk, alley, market ground or public square, which is or shall be established within the said city; to pave or otherwise improve the same; to cause them to be kept open and in good repair; to alter, vacate or close the same; to change the location of any of the same; to transfer any interest the city may have on any existing street or alley, or part thereof, in consideration of the opening of a new street or alley, or the extension of one already existing, or for other valuable consideration; and generally to ordain and enforce such regulations respecting such streets, walks, alleys, market grounds or public squares, or any of them, as shall be proper for the health, interest or convenience of the inhabitants of said city. *Provided*, That nothing herein contained shall affect the rights of abutting prop-

Act Mar. 11th, 1836, ante, p. xxxii., § 45. See acts Mar. 14th, 1881, pp. lxxx to lxxxiii. Power of council as to streets, &c.

Paving and grading.

Changing location.

General powers

Abutting owners.

AN ACT

To amend and re-enact sections twelve and eighteen of chapter one hundred and ninety-four of the acts of one thousand eight hundred and eighty-two, entitled "An act to amend the charter of the city of Wheeling."

(Passed March 12th, 1891.)

Be it enacted by the Legislature of West Virginia :

1. That sections twelve and eighteen of chapter one hundred and ninety-four of the acts of one thousand eight hundred and eighty-two, entitled "An act to amend the charter or the city of Wheeling," be amended and re-enacted so as to read as follows :

12. The said city shall be divided into not less than four nor more than ten wards, and the representation of each ward in the second branch of the council shall be as nearly as practicable in proportion to the number of persons residing therein, and the members from each ward shall be elected by the voters of said city who shall at the time of the election be actual residents of such wards, except that freeholders, qualified as voters of said city, shall be entitled to vote in any one ward in which the freehold estate, in right whereof they vote, is situated.

Act Mar. 11th, 1886, ante, pp. xxv. and xxvi., § 12.
Mar. 24th, 1882, ante, p. lxxxviii. § 12.
Wards.
Representation from each ward
To be elected, by whom.

18. The council of said city shall, before the first day of January, one thousand eight hundred and ninety-three, and in every tenth year thereafter, cause enumerations to be made of the number of persons residing in the several wards of said city, and having fixed the number of members of which their representation in the second branch of the council shall thereafter consist (the whole number of members in said branch not to exceed thirty-four, however,) they shall apportion the number of members among the several wards according to the principle of representation hereinbefore fixed.

Act Mar. 11th, 1886, p. xxvii., § 18.
Mar. 24th, 1882, p. lxxxviii., § 18
Enumerations.
Apportionment.

Council must ratify this act. erty owners on such streets or alleys. *And provided further,* That this act shall not take effect until ratified by the council of Wheeling.

AN ACT

To amend and re-enact section 48 of chapter 54 of the code of West Virginia with reference to the appropriation of land by railroad companies.

(Passed February 24th, 1891.)

Be it enacted by the Legislature of West Virginia :

Code W. Va., ch. 54, § 48 amended. 1. Section 48 of chapter 54 of the code of West Virginia is hereby amended and re-enacted so as to read as follows :

May condemn real estate. 48. If any such corporation shall be unable to agree with the owner of any real estate for the purchase thereof for its corporate purposes, it may have such real estate condemned for such purposes, under the provisions of chapter forty-two of this code. Any such corporation may take and hold under any grant or ordinance made by a municipal corporation, any interest or right such municipal corporation may have in any street, alley or public ground, and may in exchange therefor, in whole or in part, dedicate or otherwise secure to public use another street, alley or parcel of ground out of real estate owned by such railroad corporation, whether acquired by purchase or condemnation ; or under an agreement with such municipal corporation may condemn land for use as such new street, alley or public ground, in the same manner as it may condemn land for its own use. The county court of any county may authorize any telegraph or telephone company organized under this chapter, to erect and maintain telegraph or telephone poles on any land condemned or used as a public road, but not in such way as to obstruct any such road. But this section shall not apply to the national or Cumberland road.

May take by grant or ordinance any interest of a municipal corporation.

May exchange or condemn for new streets, &c., in lieu of old ones.

Telegraph poles along county road.

Exception.