

Baltimore city, the city having given its assent to the use of its streets. *Brown v. Md. Telephone Co.*, 101 Md. 577.

For a case involving the validity of a municipal ordinance, *ultra vires* when made but subsequently ratified by the legislature; the effect of a compliance by a telephone company with the conditions of such ordinance; and the proper remedy to enforce the rights of the telephone company thereunder; see *Chesapeake, etc., Telephone Co. v. Baltimore City*, 89 Md. 689.

See sec. 357, *et seq.*, and notes to sec. 402.

Police.

1904, art. 23, sec. 402. 1888, art. 23, sec. 288. 1880, ch. 460, sec. 221.
1906, ch. 769.

406. Corporations owning or using any railroad, steamboat, canal, furnace, colliery or rolling mill in this State, may jointly or severally apply to the governor to commission such persons as the said corporation or corporations may designate to act as policemen for the protection of the property of said corporation or corporations, and for the preservation of peace and good order on their respective premises, railroad trains or steamboats, providing that such policemen must be citizens of the State of Maryland.*

A steamboat or railroad company is liable for an unauthorized arrest made by a policeman appointed under this section, if such arrest was made for the purpose of protecting property or of recovering it back; *contra*, if the arrest is made for the purpose of punishing the person arrested, unless the arrest is previously authorized or subsequently ratified. In other words, the liability of the company depends upon whether the policeman was acting at the time as an employee of the company, within the scope of his employment, or as an officer of the state. Case properly submitted to the jury. *B., C. & A. Ry. Co. v. Ennalls*, 108 Md. 78; *B. & O. R. R. Co. v. Strube*, 111 Md. 126; *Tolchester Co. v. Scharnagl*, 105 Md. 210; *B. & O. R. R. Co. v. Deck*, 102 Md. 669; *Tolchester Co. v. Steinmeier*, 72 Md. 315.

Ibid. sec. 403. 1888, art. 23, sec. 289. 1880, ch. 460, sec. 222.

407. The governor, upon such application, may, if he thinks it proper so to do, appoint such persons, or so many of them as he may deem proper, to be such policemen; and shall issue to each person so appointed a commission, and shall transmit such commission to such clerk's office in the State as may, by such corporation or corporations, be designated, and he may revoke and annul any such appointments at his pleasure.

See notes to sec. 406.

Ibid. sec. 404. 1888, art. 23, sec. 290. 1880, ch. 460, sec. 223.

408. Every policeman so appointed shall, before entering upon the duties of his office, take and subscribe before a justice of the peace of the county or city in which his commission may be received, the oath or affirmation prescribed by the fourth section of the first article of the constitution, which oath or affirmation shall be recorded in the clerk's

*By the act of 1906, ch. 471, the board of police commissioners of Baltimore city was authorized to appoint special policemen upon the application of any corporation or person in the city of Baltimore.