

ACTS

OF THE

GENERAL ASSEMBLY

OF THE

COMMONWEALTH OF KENTUCKY,

PASSED AT THE

REGULAR SESSION OF THE GENERAL ASSEMBLY, WHICH WAS
BEGUN AND HELD IN THE CITY OF FRANKFORT, ON
MONDAY, THE THIRTIETH DAY OF DECEMBER,
EIGHTEEN HUNDRED AND EIGHTY-NINE.

26793

VOLUME I.

PROPERTY OF THE STATE OF KENTUCKY.

FRANKFORT, KY.:
CAPITAL OFFICE, E. POLK JOHNSON, PUBLIC PRINTER AND BINDER,
1890.

visions of this law shall be paid to the treasurer of Carroll county for the use of the county.

§ 10. The provisions of this act shall apply to all turnpikes and turnpike companies which said county has heretofore or may hereafter assist in building.

§ 11. This act shall take effect from its passage.

Approved March 6, 1890.

CHAPTER 303.

AN ACT to incorporate the town of Burnside, Pulaski county, Kentucky.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Incorporated. § 1. That the inhabitants of the town of Burnside, in the county of Pulaski, and State of Kentucky, be, and they are hereby, incorporated and made a body-politic and corporate, under the name and style of the town of Burnside; and under said name they shall have full power to contract and be contracted with, to sue and be sued, to plead and be impleaded; to have perpetual succession, and to do and to perform all such acts and things as such corporate bodies may rightfully do.

Limits. § 2. The boundaries of said town shall be as follows: Beginning on an elm on the west bank of the South Fork of Cumberland river, at the mouth of same; thence up the river with the top of the banks, south sixty-six degrees, east nineteen poles; thence south forty-eight degrees, east twenty-four poles; thence south thirty-two degrees, east thirty-four poles; thence south twenty degrees, west one hundred and fifty-six poles to a stake on the west bank of the river; thence south seventy degrees east, crossing the river one hundred and thirty-six poles to a rock in S. H. Bryant's line; thence south eighty degrees, east twenty-six poles; thence south eighty-

five degrees, east eleven poles to a rock, Bryant's and Shadower's corner; thence with Shadower's line north seventy-four degrees, east sixteen poles to a rock, his corner; thence with his line north twenty-three degrees, west fifty-seven poles to a stake, corner of the Burnside Land Company; thence with their line north fifty-seven degrees, east two hundred and seventy-two poles to a cedar near the Antioch road; thence north five degrees, east one hundred and thirty poles to a blue ash, Kinsey's corner, on the south cliff of Cumberland river; thence the same course forty poles, crossing the river to a stake on the north bank of the same; thence down the same, binding thereon, north fifty-seven degrees west one hundred and fifty poles, north sixty-five degrees west eighty poles, north seventy-one degrees west seventy-four poles, north eighty-five degrees west twenty-two poles, south seventy-six degrees west nineteen poles, south sixty degrees west twenty-one poles, south forty-five degrees west ninety-four poles, south thirty degrees west forty-six poles, south five degrees west eighty-eight poles to a rock; thence south fifty-five degrees west forty poles to the beginning.

§ 3. That all persons residing in said town sixty days previous to an election, and who have the right to vote for members of the General Assembly and other officers of this Commonwealth, shall be qualified to vote for officers of said town.

§ 4. The officers of said town shall be a board of Officers. trustees, consisting of five members, who shall hold their offices for two years; a police judge, who shall hold his office for two years, and a marshal, who shall hold his office for one year.

§ 5. That George P. Taylor, A. G. Daugherty, L. B. Board of directors. Cook, M. D. Stigall and R. M. Phillippi be, and they are hereby, appointed trustees of said town of Burnside; and said trustees and their successors shall choose one of their body as chairman, who shall

preside over the board at all meetings of said board, and he may call special meetings when deemed proper or necessary by him ; a majority of said trustees shall constitute a quorum to do business.

§ 6. The trustees appointed shall remain in office until the first Monday in June, one thousand eight hundred and ninety-two, and until their successors are elected and qualified.

Police judge.

§ 7. That James H. Hill shall act as police judge, he to hold said office until the first Monday in June, one thousand eight hundred and ninety-two, and until such time as his successor is elected and qualified.

Marshal.

§ 8. That John Coomer shall act as marshal, he to hold said office until first Monday in June, one thousand eight hundred and ninety-one, and until such time as his successor is elected and qualified.

Elections.

§ 9. An election shall be held on the first Monday in June, one thousand eight hundred and ninety-one, and upon the same day every year thereafter at a place designated by the board of trustees, for the purpose of electing a town marshal ; and on first Monday in June, one thousand eight hundred and ninety-two, and every second year thereafter, and upon the same day, for the purpose of electing five trustees and a police judge.

Terms to begin.

§ 10. The terms of all elective officers shall commence on the first Monday in July next after their election, and continue until their successors are qualified.

May make by-laws and ordinances.

§ 11. The board of trustees shall have power to make by-laws and ordinances for the government of said town, for the preservation of good order, decency and decorum within its limits ; for the preservation of the peace, lives, health and property of the citizens, inhabitants and others within its limits ; for the preservation, repair and improvements of the streets, sidewalks, alleys and other public property of said town ; to require the owners of real estate in said town to build and repair the sidewalks in

front, at side, or back of such real estate as they own, in such manner and with such material as said board may direct ; and in the event that the owners of such real estate fail or refuse to build or repair such sidewalks, as required as aforesaid, said board of trustees shall have the power to have the same built or repaired, and shall have a lien on the real estate at back, front, or side of which such sidewalk may be built or repaired, for the cost and expenses of the same, which lien may be enforced by appropriate proceedings in the Pulaski Circuit Court.

§ 12. Said board of trustees shall have power to prevent the erection of unsafe buildings, chimneys or flues ; to have the same inspected, and condemn such as are unsafe ; to prevent and abate nuisances ; to suppress tippling-houses and bawdy-houses, or houses of ill-fame ; to license any itinerant venders of goods, wares, merchandise, drugs, medicines and nostrums ; also to tax any shows, menageries, circus or other exhibition which may be held, shown or exhibited in said town, or within one half mile of the corporate limits thereof.

§ 13. Said board of trustees may license, or permit to be run free, billiard-tables, pool-tables, shooting-galleries, or any game that is not prohibited by law.

§ 14. Said board of trustees may also provide and maintain suitable apparatus for the extinguishment of fires in said town ; they may cause wells and cisterns to be dug in said town for the supply of water for the inhabitants thereof, and for the extinguishing of fires ; they may extend streets and alleys of said town, or open new streets and alleys ; but no street or alley shall be extended or opened except by consent of the owner of the land over which the same may pass, except in the manner prescribed by law.

§ 15. Said board of trustees shall have power to prescribe adequate penalties for violations of the by-laws, ordinances and regulations of said town : *Provided*, That they shall have no power to make any

by-laws, ordinances, rules or regulations in contravention of the constitution and laws of the United States or of this State.

§ 16. *Provided further*, That they shall not have power in any one case for a violation of the by-laws and ordinances of said town, to inflict a greater penalty than a fine of one hundred dollars, or imprisonment for fifty days, or both such fine and imprisonment.

Liquor license.

§ 17. Said board of trustees shall not have the power to grant license for the sale of any spirituous, vinous or malt liquors, or a mixture thereof, whenever the sale of the same shall be prohibited by any law of this State.

Levy tax.

§ 18. Said board of trustees shall have power to levy a poll-tax of not exceeding two dollars and fifty cents on each male resident in said town over the age of twenty-one years, and a tax of not exceeding fifteen cents on each one hundred dollars' worth of real and personal estate in said town, as shown by the assessor's books of the county for the current year, except machinery and manufacturing implements, which shall be exempt from any tax. Should the owner of any real or personal estate in said town fail or refuse to pay the taxes levied thereon in pursuance of this act, the board of trustees may cause the same to be sold for said taxes by the town marshal, at the court-house door in Burnside, at public auction, to the highest bidder for cash in hand, the sale having been first advertised for at least thirty days, by posting notices of said sale in no less than three conspicuous places in said town. The owner of the property so sold may redeem the same within two years from such sale, by paying to the purchaser thereof the purchase money therefor, with interest thereon at the rate of thirty per centum per annum from the date of sale; and should the owners of such property fail to redeem the same within said period, it shall be the duty of the marshal to convey the same

by deed to the purchaser, and this deed shall vest in such purchaser all the title which the former owner may have had to such property.

§ 19. Said board of trustees shall have power to appoint a clerk, whose duty it shall be to keep a fair record of all the proceedings of the board, and to perform such other duties as may be prescribed by the board. They may also appoint a treasurer, prescribe his duties, and shall require him to execute such bond as may be sufficient to protect the interest of the town. They may also appoint an attorney for said town, whose duty it shall be to prosecute all persons charged with a violation of the ordinances of said town, and the board may agree with said attorney as to his compensation; they may appoint special policemen and invest them with the powers of peace officers, and prescribe their duties; they may establish a jail and a work-house, and appoint a keeper or warden thereof; they may appoint such other officers as may be necessary in said town, and may prescribe their duties. All officers appointed by said board of trustees shall hold their offices during the pleasure of the said board.

§ 20. The judicial powers of said corporation shall be vested in and exercised by a court, to be styled the Burnside Police Court, which shall be held by the police judge of said town under the style of the Judge of the Burnside Police Court; regular term of said court for the trial of civil actions shall be held on the second Monday in each month of the year, and said police judge shall hold a regular monthly term of said court for the trial of penal and criminal causes, on a day to be fixed by him and noted of record in the order-book of said court; but he may hold a court at any time for the trial of such cases. It shall be the duty of the police judge to issue his warrant for the arrest of any person upon affidavits being filed that such person is guilty, or that there are grounds for so

Judicial powers—police court.

believing him or her guilty of an offense, or of a violation of any ordinance of said town.

§ 21. The police judge, as judge of said court, shall have exclusive jurisdiction of all offenses against the ordinances of said town, and concurrent jurisdiction as that of a justice of the peace within three miles of the corporate limits; and he shall have the same jurisdiction in all penal or criminal or other cases as that of a justice of the peace for Pulaski county; he may hold examining courts; he may take recognizances and bail bonds for all appearances in his said court, for and within the town limits, and within three miles of the corporate limits, and the collection, recovering or forfeiting of said recognizances or bail bond may be enforced in said court.

§ 22. Whenever the jurisdiction of said police court in any civil action is concurrent with that of circuit courts, a tax of fifty cents shall be paid to said police judge for the purpose and under the same conditions as when such taxes are paid to circuit court clerks, and shall be accounted for in the same manner. In all such actions the fees of the police judge shall be the same as those allowed by law to circuit court clerks for similar services; and the fees of the officers executing the process shall be the same as those allowed to sheriffs for similar services; and in taxing as costs, the fees of officers and attorneys in all such actions, the same rules of law which apply to and govern clerks of circuit courts shall apply to and govern said police judge.

§ 23. In all civil actions in said police court, in which the amount in controversy, exclusive of interest and costs, does not exceed the sum of fifty dollars, the fees of said police judge shall be the same as those allowed by law to justices of the peace for similar services; and the fees of the officers executing the process shall be the same as those allowed by law to constables for similar services.

§ 24. Said police court shall be a court of record.

Said police judge shall act as clerk of said court. He shall keep a fair record of all of its proceedings in suitable books to be furnished by the town of Burnside, and duly certified copies of the records of said court may be given in evidence in the other courts of this State. Said police judge shall have power similar to a justice of the peace to grant attachments, injunctions, restraining orders, and other provisional remedies; he may issue any and all process, precepts and other instruments necessary to carry out the judgments or orders of said court, and may enforce obedience to the same; he may punish contempts by a fine not exceeding ten dollars, or imprisonment for ten days, or both, at the discretion of the court.

§ 25. Any summons, warrant, subpoena, execution, *capias*, order for a provisional remedy, or other process issuing from said police court, may, at the option of the plaintiff, be directed to the marshal, a constable, or the sheriff, or, in their absence, to the coroner or jailer, any of whom may execute the same.

§ 26. The laws governing the election of a special judge of a circuit court as to the cause and manner thereof shall apply to the election of a special judge of said court, who shall possess the qualifications of a police judge; and the board of trustees shall have power to appoint an attorney in case of necessity to act as police judge of said town of Burnside. The pleadings and mode of procedure and practice in said police court shall be governed by the Kentucky Codes of Practice in civil and criminal cases, except as herein provided; and any term of said court may continue from day to day until business thereof may be completed.

§ 27. If, during the pendency of any action in said police court, it shall appear that the title to, or boundary of, any real estate is involved in the controversy, it shall be the duty of the court to make an order transferring to the circuit court of the county, and to deliver to the clerk of said court all the original

papers and certified copies, and all orders made in such action. Said clerk shall thereupon place said action upon the docket of his court, and the same proceedings may be had thereon as though the action had been originally instituted in said circuit court; and in no event shall the title to, or boundary of, any real estate be affected by any judgment of said police court.

Fines and forfeitures.

§ 28. All fines and forfeitures recovered in the Burnside Police Court, for violations of the town ordinances of the town of Burnside, are hereby granted to said town of Burnside, and shall be paid into the treasury of said town. Any person who shall fail or refuse to pay or replevy, with good security, any fine assessed or adjudged against him or her in said police court, as well as the costs of the prosecution, may be imprisoned in the county jail of Pulaski county until such fine and costs shall be paid or replevied; but such imprisonment shall not exceed one day for each two dollars of such fine and costs; or any person failing to pay or replevy an such fine and costs inflicted for a violation of the ordinances of said town, or of the laws within its limits, may be required, by the judgment of said court or jury trying the case, to work upon the streets, or other public works of said town, under the supervision of the marshal, at the rate of one dollar per day until said fine and costs shall thus be paid. The marshal shall use all necessary force to compel such defendant to work.

Jailer.

§ 29. The jailer shall diet such defendant during the period of such labor; and when not engaged at such labor, the defendant shall be confined in the jail until the expiration of his term of service.

§ 30. It shall be the duty of the jailer of Pulaski county to receive and keep in the jail of said county all persons committed thereto, under any order of, or *capias* from, the said police court; but the fees of said jailer for imprisoning and keeping and providing for all persons committed for violations of the ordinances

of said town shall be allowed by the board of trustees, and paid out of the treasury thereof.

§ 31. The marshal of said town shall be a voter and resident therein, and he may, by and with the consent of the board of trustees, appoint a deputy, who shall have the same powers and perform the same duties as the marshal.

§ 32. It shall be the duty of the marshal to execute all orders, notices, and so forth, issued by the board of trustees; to attend all regular and other terms of the police court held for the trial of penal and other causes; to execute all warrants or other process; also any order or *capias* issued from the Burnside Police Court in any prosecution for a violation of any of the ordinances of said town, or of the laws of this State within the limits of said town; and in the execution of the process in any criminal or penal prosecution in any court in this State, said marshal shall have the same powers as those of a constable of Pulaski county.

§ 33. It shall also be the duty of the marshal to collect all taxes assessed in said town, as also to properly assess all taxable property in said town. Before entering upon his duties, the marshal shall take the oath prescribed by the Constitution of this State, and shall, before the board of trustees, execute a bond with good security, conditioned that he will well and faithfully perform the duties of his office; and that he will pay over and account for all the taxes and all other moneys collected by himself or deputy upon any execution, order of court, or of the board of trustees, or any *capias*, execution or other process, or which may otherwise be collected by him as marshal or by his deputy, to the proper person or persons, which bond shall be payable to the Commonwealth of Kentucky, and shall be on the conditions and under the penalties of the bonds required to be given by constables for the discharge of their duties, and the

same remedies may be had upon said bond as may be had on the official bonds of constables.

Marshal shall take oath and give bond.

§ 34. The marshal of said town may, in the Pulaski County Court, take oaths required by law to be taken by constables, and execute a bond similar to the bond required by law to be executed by constables, upon which the marshal shall have all the powers of a constable of Pulaski county; and shall be subject to the same responsibilities as a constable of said county; but the marshal may discharge all the duties and have all the powers conferred on him by the preceding section without executing the bond required in this section: *Provided*, That before any deputy of said marshal shall proceed to discharge any of the duties embraced in this section, the marshal shall execute in said county court a bond similar to the bond required in this section to be executed by himself, which bond shall be conditioned for the proper discharge of the duties of a constable by said deputy.

§ 35. Any officer authorized by this act to execute any process requiring bail shall have power to take such bail.

§ 36. All process issued by said police judge shall be in the name of the Commonwealth of Kentucky, and all prosecutions for violation of the ordinances of said town, or of the laws within its limits, shall be in the name of town of Burnside as plaintiff.

Eligibility for office.

§ 37. No person shall be eligible for the office of member of the board of trustees or police judge of said town unless he shall have been a voter and resident of said town at least one year next before his election or appointment; nor shall any office of said town be held by any person not a resident and voter therein.

§ 38. Before entering upon the duties of their respective offices the members of the board of trustees and the police judge shall take the oath prescribed by the Constitution of this State, and the police judge

shall also take an oath similar to that required by law to be taken by county judges.

§ 39. The police judge shall be commissioned by the Governor upon the certificate of his election or appointment from the chairman and clerk of the board of trustees; said police judge shall also execute, before the clerk of the Pulaski County Court, a bond similar to that required by law to be executed by county judges.

§ 40. A vacancy in the office of the board of trustees ^{Vacancies.} shall be filled by appointment by the remaining members of the board until the next regular election for trustees. A vacancy in the office of police judge of said town shall be filled by appointment by the board of trustees until the next regular election for police judge, and a vacancy in the office of marshal shall be filled in a like manner until the next regular election for town marshal.

§ 41. All general laws of this Commonwealth relating to cities and towns, and not inconsistent with this act, shall apply to the town of Burnside and the Burnside Police Court.

§ 42. This act shall take effect from and after its passage.

Approved March 6, 1890.

CHAPTER 306.

AN ACT to incorporate the Keene Cemetery Company, in Jessamine county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That A. D. Collins, Andrew Woods, William ^{Incorporators.} M. Smither, C. E. Smith, A. M. Young, G. W. Goode, S. C. Lyne, G. W. Sandusky, George S. Moseley, J. H. Blackford and J. T. Sallee, be, and they are hereby, made a body-politic and corporate in law, under the