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LAWS AND ORDINANCES

RELATIVE TO THE

Preservation of the Public Health

ERRATUM.

PAGE 8.—Foot note should read thus: “The Board of Councilmen was created and substituted for the Board of Assistant Aldermen, 1853. (See Chapters 217 and 352, Laws of 1853.)”

COMPILED AND ANNOTATED BY

GEO. W. MORTON,

111
COUNSELLOR AT LAW.

Published under the Authority and by Direction of
THE MAYOR AND COMMISSIONERS OF HEALTH.



NEW YORK:
EDMUND JONES & CO., PRINTERS AND STATIONERS,
No. 26 JOHN STREET.

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Preservation of the Public Health

IN THE

CITY OF NEW YORK:

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Mayor's Office, City Hall, }
NEW YORK, JUNE 2, 1860. }

At a meeting of the Mayor and Commissioners of Health, held at the City Hall in the city of New York, the following resolution was unanimously adopted :

Resolved, That an annotated compilation of the Laws and Ordinances relating to the Public Health, be prepared by GEORGE W. MORRIS, Esq., and submitted for publication under the authority of this Board."

WA

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ORGANIZATION

OF

Health Authorities in the City of New York,

FOR THE YEAR 1861.

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RESIDENCE—Bloomingdale; OFFICE—City Hall.

COMMISSIONERS OF HEALTH.

HENRY W. GENET, *President of the Board of Aldermen:*
RESIDENCE—86th street, near 2d avenue; OFFICE—12 Centre street.

MORGAN JONES, *President of the Board of Councilmen:*
RESIDENCE—67 Centre street; OFFICE—67 Centre street.

ALEXANDER N. GUNN, M. D., *Health Officer:*
RESIDENCE—Staten Island; OFFICE—Quarantine.

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RESIDENCE—795 Broadway; OFFICE—Mayor's Office.

JEDEDIAH MILLER, M. D., *Health Commissioner:*
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DANIEL E. DELAVAN, *City Inspector:*
RESIDENCE—197 Prince st.; OFFICE—19 Chatham street.

LOUIS E. HOPKINS, *Clerk:*
RESIDENCE—85 Amity street; OFFICE—Mayor's Office.

OFFICERS OF THE BOARD OF HEALTH.

HON. FERNANDO WOOD, MAYOR—*President.*

DAVID T. VALENTINE, *Clerk of the Common Council, and of the Board of Health;* OFFICE—8 City Hall.

28145

Committees on Public Health in the Common Council, for 1861.



BOARD OF ALDERMEN.

- TERENCE FARLEY,.....RESIDENCE—54th street.
CHARLES J. CHIPP,..... “ 111 Hammond street.
RICHARD BARRY,..... “ 488 Pearl street.



BOARD OF COUNCILMEN.

- LUKE CURNEN,.....RESIDENCE—133 West 32d street.
JOHN RYAN,..... “ 208 First avenue.
CHARLES C. PINCKNEY, “ 15 West 39th street.

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L A W S

RELATIVE TO THE

PUBLIC HEALTH

IN THE

City of New York:

1860.

L A W S

RELATIVE TO THE PUBLIC HEALTH IN THE CITY OF NEW YORK: Part 1st, Chapter XIV., Revised Statutes, as Amended and Modified by Subsequent Acts of the Legislature.

TITLE I.

OF THE OFFICERS OF THE PUBLIC HEALTH IN THE CITY OF NEW YORK.

Board of Health. of SEC. 1. The legislative powers heretofore vested by any existing law of this State, in the Board of Health of the city of New York, other than as the same are hereinafter modified or altered, shall be vested in the Mayor and Common Council of the said city of New York. (1850, *ch.* 275, § 1.)

Quorum. President. § 2. The said Mayor and Common Council, when acting in relation to the public health of said city, or in the execution of the said powers, or of those hereinafter conferred, shall be known as the Board of Health of the city of New York, of which ten members shall be necessary to constitute a quorum. The Mayor shall be the President of such Board, and shall have power at any time to convene the same. (*Same ch.* § 2. *)

* [§ 17] The Clerk of the Common Council shall be, by virtue of his office, Clerk of the Board of Health [§ 19], and shall keep the minutes thereof [§ 24]; issue notices to the members when directed by the Board, and to the members of the different Committees, and all persons whose attendance will be required before any such Committee, when directed by the Chairman thereof; and [§ 25] shall, without delay, deliver to all officers of the Corporation, or of the Board of Health, and to all Committees of that Board, all resolutions and communications referred to those officers or Committees.—*Rev. Ord.*, 1859.

§ 3. The sessions of the Common Council, when acting ^{Sessions.} as a Board of Health, shall be with closed doors, except when otherwise ordered by said Board. (*Same ch. § 3.*)

§ 4. The President of the Board of Aldermen, the President of the Board of Assistant Aldermen,* the Health ^{Commissioners of Health} Officer, the Resident Physician, the Health Commissioner, and City Inspector, shall be the Commissioners of Health. (*Same ch. § 4.*)

§ 5. It shall be the duty of the Mayor and the Commis- ^{To advise the Board.} sioners of Health to render their advice to the Board of Health, and to the City Inspector of said city, in regard to all matters connected with the public health thereof. (*Same ch. § 5.*)

§ 6. The Health Officer shall perform all the duties here- ^{Health Officer.} inafter specified, and such other duties as the Board of Health, or the Mayor and the Commissioners of Health shall lawfully require. (*Same ch. § 6.*)

§ 7. The Health Officer may appoint an assistant, for ^{Assistant Health Officer.} whose conduct he shall be responsible, and who may perform all the duties required of the Health Officer. Such assistant shall, before entering on the duties of his office, take the oath prescribed in the Constitution of this State. (*Same ch. § 7.*)

§ 8. The Resident Physician shall visit all sick persons ^{Resident Physician.} reported to the Board, or to the Mayor and the Commissioners of Health, and shall perform such other professional duties as the Board of Health shall enjoin. (*Same ch. § 8.*)

* Board of Councilmen was created and substituted for the Board of Assistant Aldermen, abolished by the amended charter, 1857.

Health Commissioner. § 9. The Health Commissioner, under the direction of the Board of Health, shall assist the resident Physician in the discharge of his official duties. (*Same ch.* § 9.)

Ib. to give Bond. § 10. (Sec. 8.) He shall also receive all moneys appropriated to the use of the Marine Hospital, and shall pay all demands against the Hospital that shall be approved by a majority of the Commissioners of Health; and before he shall enter on the duties of his office, shall execute a bond in the penal sum of twenty thousand dollars, conditioned for the faithful performance of his trust, and with such sureties as the Mayor or Recorder of the city shall approve. The bond shall be given to to the people of this State, and be filed by the officer taking it, in the office of the clerk of the city and county. (*As amended* 1840, *ch.* 19.)

To Account and Deposit moneys. § 11. (Sec. 9.) He shall render to the Board of Health, a monthly account of his receipts and disbursements on account of the Marine Hospital, and shall deposit the balance that shall appear to be in his hands in such bank, in the city of New York as the Board shall designate, to the credit of the Commissioners of Health.

Moneys, how Drawn. § 12. (Sec. 10.) The moneys so deposited shall not be drawn out, except on the check of the Health Commissioner, countersigned by the President of the Board of Health.*

Commissioners to meet. § 13. In the discharge of their duties, the Mayor and the Commissioners of Health shall meet daily, at the office of the Board of Health, during such part of the year and at

* The transfer of the control of the Marine Hospital to the Commissioners of Emigration, by chapter 483 of the laws of 1847, has rendered the provisions of the original sections 8, 9 and 10, of this Title, in many respects inoperative. But they have not been specifically repealed, and it is possible that cases may arise under existing laws where moneys may be received and disbursed as directed in these sections. They are, therefore, inserted entire.

such hours of the day as the said Board shall designate. (1850, *ch.* 275, § 10.)

§ 14. The Resident Physician shall receive an annual salary of twelve hundred and fifty dollars, to be paid by the Corporation of said city; and the Health Commissioner an annual salary of three thousand five hundred dollars, in lieu of fees and per centage, which shall be paid by the Commissioners of Emigration*; and after the expiration of the term of office of the present Health Commissioner and Resident Physician, the said officers shall hereafter be appointed by the Mayor of the city of New York, by and with the advice and consent of the Board of Aldermen of said city. (*Same ch.* § 11.)

Salaries of Resident Physician and Health Commissioner.

§ 15. The Board of Health may, from time to time, appoint so many visiting, hospital, and consulting physicians as they may deem necessary; designate their duties, and fix their compensation. (*Same ch.* § 12.)

Consulting Physicians be appointed

§ 16. The Board of Health of the city of New York may appoint any physician in their employ, or in that of the Commissioners of Emigration, to act as the agent of the Board of Health in all matters concerning the protection of the city against the introduction of contagious or infectious diseases. (1849, *ch.* 350, § 11.)

Agent may be appointed

§ 17. The Mayor, by and with the advice and consent of the Board of Aldermen, may appoint an Inspector of Vessels, who shall, under the direction of the Mayor and the Commissioners of Health, or of the Board of Health,

Inspector of Vessels.

* Modified by section 7 of chapter 523, Laws of 1851, so as to make the salary of the Health Commissioner payable out of the city treasury, and be fixed by the city authorities.

perform the duties required of him in this act, and shall be entitled to receive the following fees :

Fees.

For each cargo inspected by him, under such direction, three dollars.

For each vessel cleansed and purified by him, under the like direction, five dollars.

Which fees shall be paid by the owner or consignee of the cargo inspected, or vessel cleansed and purified. (1850, *ch.* 275, § 13.)

Inspector to Report.

§ 18. It shall be the duty of such Inspector, after he shall have performed any service required of him, to make an immediate report of his proceedings and their result, to the Board of Health, or to the Mayor and the Commissioners of Health. (*Same ch.* § 14.)

TITLE II.

OF QUARANTINE, AND REGULATIONS IN THE NATURE OF
QUARANTINE, AT THE PORT OF NEW YORK.

ARTICLE FIRST.

Of the place of Quarantine, and Vessels and Persons subject thereto.

§ 1. The anchorage ground for vessels at Quarantine shall be near the place where the Marine Hospital now is, and shall be designated by buoys to be anchored under the direction of the Health Officer; and every vessel subject to quarantine shall, immediately on her arrival, anchor within them, and there remain, with all persons arriving on her, subject to the examinations and regulations imposed by law. (1856, *ch.* 147, § 1.*)

Anchorage
Ground.

§ 2. Vessels arriving at the port of New York shall be subject to quarantine as follows: 1st. All vessels from any place where pestilential, contagious, or infectious disease existed at the time of their departure, or which shall have arrived at any such place and proceeded thence to New York, or on board of which, during the voyage, any case of such disease shall have occurred, arriving between the first day of April and the first day of November, shall remain at Quarantine for at least thirty days after their arrival, and at least twenty days after their cargo shall have been discharged, and shall perform such and further quarantine as the Mayor and Commissioners of Health may prescribe,

Quarantine
of Vessels

* In Relation to removal of Quarantine, erection of Hospitals, &c., see Laws 1857, *ch.* 68.

unless the Health Officer, with the approval of the Mayor or Commissioners of Health, shall sooner grant a permit for said vessel or cargo, or both, to proceed. 2d. All vessels from any place (including islands) in Asia, Africa, or the Mediterranean, or from any of the West Indies, Bahama, Bermuda or Western Islands, or from any place in America in the ordinary passage from which they pass south of Cape Henlopen, and all vessels on board of which, during the voyage or while at the port of their departure, any person shall have been sick, arriving between the first day of April and the first day of November, and all vessels from a foreign port, not embraced in the first subdivision of this section, shall, on their arrival at the quarantine ground, be subject to visitation by the Health Officer, but shall not be detained beyond the time requisite for due examination and observation, unless they shall have had on board during the voyage some case of infectious, contagious, or pestilential disease, in which case they shall be subject to such quarantine and regulations as the Health Officer and the Mayor or Commissioners of Health may prescribe. 3d. All vessels embraced in the foregoing provisions, which are navigated by steam, shall be subject only to such length of quarantine and regulations as the Health Officer shall enjoin, unless they shall have had on board during the voyage some case of infectious, contagious, or pestilential disease, in which case they shall be subject to such quarantine as the Health Officer and the Mayor or Commissioners of Health shall prescribe. (*Same ch.* § 2.)

Quarantine
of vessels.

§ 3. All vessels and persons remaining at Quarantine on the first day of November, shall, thereafter, be subject to such quarantine and restrictions as vessels and persons arriving on and after that day. (*Same ch.* § 3.)

§ 4. The Board of Health, or the Mayor and Commissioners of Health, of the city of New York, or the Board of Health of Brooklyn, or the Health Officer of the port of New York, whenever, in their or his judgment, the public health shall require, may order any vessel at the wharves of the city or in their vicinity, to the Quarantine ground, or some other place of safety; and may require all persons, articles or things introduced into the city from such vessel, to be seized, returned on board thereof, or removed to the Quarantine or other place of safety. If the master, owner, or consignee of the vessel cannot be found, or shall neglect or refuse to obey the order of removal, the said Board of Health, or Mayor and Commissioners of Health, or Health Officer, shall have power to employ such assistance as may be necessary to effect such removal, at the expense of such master, owner, or consignee; and such vessel or person shall not return to the city without the written permission of the said Board of Health, or Mayor and Commissioners of Health, or Health Officer. Whenever any person shall have been employed, as above provided, to remove any vessel, or to remove any article or thing introduced into the city from such vessel, and shall, in pursuance of such employment, effect such removal, he shall have a lien on said vessel, her tackle, apparel, and furniture, for his services and expenses in effecting such removal. (1857, *ch.* 412, § 1.)

Board of Health of N. Y. or Brooklyn, Mayor and Commissioners of Health or Health Officer may remove persons, vessel, articles, or things to Quarantine, &c., at expense of Master and others.

§ 5. Whenever the said Health Officer, in the performance of the duties and in the execution of the powers imposed and conferred upon him by law, or by any regulation or ordinance made in pursuance of any statute of this State, shall order or direct the master, owner, or consignee of any vessel under Quarantine, to remove such vessel

Health Officer empowered to enforce orders &c.

from her anchorage, or to do any act or thing, or comply with any regulation relative to said vessel, or to any person or thing on board thereof, or which shall have been brought to said port therein, and such master, owner, or consignee shall neglect or refuse to comply with such order or direction, the said Health Officer shall have power to employ such persons and assistance as may be necessary to carry out and enforce such order or direction, and the persons so employed shall have a lien on such vessel, her tackle, apparel, and furniture, for their services and expenses. (*Same ch. § 2.*)

Enforcement
of liens.

§ 6. The liens specified in the preceding sections may be enforced in the same manner as other liens on vessels are enforced, by warrant of attachment, in the mode prescribed in title eight, of chapter eight, of the third part of the Revised Statutes, all the provisions of which title shall apply to the services and expenses specified in this act; and the person or persons so rendering such services, and incurring such expenses, shall be deemed creditors of such vessel, and of her master, owner, or consignee, respectively; or such person or persons may have and maintain an action against the master, owner, or consignee, or either of them, of such vessel, to recover the value of such services and expenses. (*Same ch. § 3.*)

Vessels
bound to
Eastern
Ports.

§ 7. If any vessel arriving at the Quarantine ground, subject to quarantine, shall be bound to some port east of the city of New York, the Health Officer, after having duly visited and examined her, may permit her to pass on her voyage through the Sound; but no such vessel shall be brought to anchor off the city, nor shall any of her crew or passengers land in, or hold any communication

with the city, or any person therefrom. (1856, *chap.* 147, § 5.)

§ 8. Every vessel having had, during the voyage, a case ^{Infected ves-} of pestilential, infectious, or contagious disease, and every ^{sels.} vessel from a foreign port, having passengers, and not hereinbefore declared subject to quarantine, shall, on her arrival at the Quarantine ground, be subject to visitation by the Health Officer, but shall not be detained beyond the time requisite for due examination, unless she shall have had on board during the voyage, some case of infectious, contagious, or pestilential disease, in which case she shall be subject to such quarantine as the Health Officer, and the Mayor, and the Commissioners of Health may prescribe; and it shall be the duty of the Health Officer, whenever he thinks it necessary for the preservation of the public health, to cause the persons on board any vessel to be vaccinated. (1850, *ch.* 275, § 7.)

§ 9. The master of every vessel released from quarantine, and arriving at the city of New York, shall, within ^{Permit to be delivered at Mayor's Office.} twenty-four hours after such release, deliver the permit of the Health Officer at the office of the Mayor. (1856, *ch.* 147, § 6.)

§ 10. Nothing in this act contained shall prevent any ^{Restriction} vessel, arriving at Quarantine, from again going to sea before breaking bulk. (*Same ch.* § 7.)

ARTICLE SECOND.

Of the duties of Pilots in relation to Vessels Subject to Quarantine.

Duty
Pilots.

of § 11. It shall be the duty of each branch and deputy pilot belonging to the port, to use his utmost endeavors to hail every vessel he shall discover entering the port, and to interrogate the master of such vessel in reference to all matters necessary to enable such pilot to determine whether, according to the provisions of the preceding sections, such vessel is subject to quarantine or examination by the Health Officer. (1856, *ch.* 147, § 8.)

Notice
Master
vessel.

to of 12. If, from the answers obtained from such inquiries, it shall appear that such vessel is subject to quarantine or examination by the Health Officer, according to the preceding provisions, the pilot shall immediately give notice to the master of the vessel, that he, his vessel, his cargo, crew and passengers, are subject to such examination, and that he must proceed and anchor said vessel at the Quarantine anchorage, there to await the further directions of the Health Officer. (*Same ch.* § 9.)

Duty of Pi-
lots in charge
of vessels.

§ 13. It shall be the duty of every pilot, who shall conduct into port a vessel subject to quarantine or examination by the Health Officer :

1st. To bring such vessel to anchor within the buoys marking the Quarantine anchorage.

2nd. To prevent any vessel or boat from coming alongside of the vessel under his charge, and to prevent any thing on board from being thrown into any other vessel or boat.

3rd. To present to the master of the vessel a printed

copy of this title, when such copy shall have been delivered to him for that purpose.

4th. To take care that no violation of this title be committed by any person, and to report such as shall be committed, as soon as may be, to the Health Officer. (*Same ch.* § 10.)

ARTICLE THIRD.

Regulations concerning the Treatment, Conduct, and Duties of Vessels, Articles, and Persons under Quarantine.

§ 14. It shall be the duty of the Health Officer to board every vessel subject to quarantine or visitation by him, immediately on her arrival, between sunrise and sunset; to inquire as to the health of all persons on board, and the condition of the vessel and cargo, by inspection of the bill of health, manifest, log-book, or otherwise; to examine, on oath, as many and such persons on board as he may judge expedient, to enable him to determine the period of quarantine and the regulations to which such vessel shall be made subject, and to report the facts and his conclusions, and especially to report the number of persons sick, and the nature of the disease with which they are afflicted, to the Mayor or Commissioners of Health, in writing. (1856, *ch.* 147, § 11.)

Health Officer to board vessels.

§ 15. It shall be the duty of the Health Officer to reside within the Quarantine enclosure, and he shall have power :

Residence of Health Officer.

To remove
dangerous
vessels.

1. To remove from the quarantine anchorage ground any vessel he may deem dangerous to the public health, to any place south of the Quarantine buoys and inside of Sandy Hook:

Cargo and
passengers
to be landed.

2. To cause any vessel under quarantine, when he shall judge it necessary for the purification of the vessel or her cargo, passengers, or crew, or either of them, to discharge or land the same at the Quarantine ground or some other place out of the city,

Ventilation
and cleaning
of vessels.

3. To cause any such vessel, or her cargo, bedding, and the clothing of persons on board, to be ventilated, cleansed and purified, in such manner and during such time as he shall direct; and if he shall judge it necessary to prevent infection or contagion, to destroy any portion of such bedding or clothing, and, with the authority of the Mayor or Commissioners of Health, any portion of such cargo which he may deem incapable of purification.

Cargo, etc.,
may be des-
troyed.

4. To prohibit and prevent all persons arriving in vessels subject to quarantine, from leaving Quarantine, or removing their goods or baggage therefrom, until fifteen days after the last case of pestilential, contagious or infectious disease shall have occurred on board, and ten days after her arrival at Quarantine, unless sooner discharged by him, with the consent of the Mayor or the Commissioners of Health.

Permit to
proceed to
New York.

5. To permit the cargo of any vessel under quarantine, or any portion thereof, when he shall judge the same free from infection and contagion, to be conveyed to the city of New York or elsewhere; such permission, however to be inoperative without the written approval of the Mayor or Commissioners of Health.

6. To cause all persons under quarantine to be vaccinated, when he deems it necessary for the preservation of the public health. Vaccination.

7. To administer oaths and take affidavits in all examinations prescribed by this act, and in relation to any alleged violation of quarantine law or regulation; such oaths to have the like validity and effect as oaths administered by a commissioner of deeds. (*Same ch.* § 12.) To administer oaths.

§ 16. The Health Officer or the Physician of the Marine Hospital may direct in writing, any constable or other citizen, to pursue and apprehend any person, not discharged, who shall elope from Quarantine, or who shall violate any quarantine law or regulation, or who shall obstruct the Health Officer or the Physician of the Marine Hospital in the performance of their duty, and to deliver him to said officer or officers, to be detained at Quarantine until discharged by said officer or officers: but such confinement shall in no case exceed ten days. It shall be the duty of the constable or other citizen so directed, to obey such directions; and every such person so eloping or violating quarantine laws and regulations, or obstructing the Health Officer, shall be considered guilty of a misdemeanor, punishable with or by fine and imprisonment. (*Same ch.* § 13.) Persons eloping from Marine Hospital may be arrested.

§ 17. The Health Officer of the port of New York shall have power, at all times, to call upon any of the police force of the district, to a number not exceeding ten, to aid him, upon any necessary emergency, in enforcing the powers and duties conferred upon his office by law, and it shall thereupon become the duty of any such member of the police force, so called upon, to obey him. But such Health Officer to have ten policemen.

service shall not continue longer than twenty-four hours, unless by direction of the Board of Metropolitan Police.* (1860, *ch.* 259, § 35.)

Care of the sick.

§ 18. Every sick person sent to the Marine Hospital by the Health Officer shall be there kept and attended to with all necessary and proper care, and no such person shall leave the Hospital until the Health Officer shall grant a discharge in writing. (1856, *ch.* 147, § 14.)

Commissioners of Emigration shall take charge of indigent emigrants.

§ 19. The Commissioners of Emigration shall remove from the Marine Hospital and take charge of all indigent emigrants whose quarantine has expired, and who shall have sufficiently recovered from the diseases with which they were admitted, on the notification, in writing, of the Health Officer, that such removal will not, with ordinary care, endanger the safety of the individual, or the health of the community. (*Same ch.* § 15.)

When cargo may be shipped for sea.

§ 20. The Health Officer, the Board of Health, or the Mayor and Commissioners of Health may, if in their opinion it will not be dangerous to the public health, permit the cargo of any vessel under quarantine, or any portion thereof, to be shipped for exportation by sea, or transportation up the North or East River; and if the vessel receiving the same shall approach nearer than two hundred yards to the wharves of the city, said cargo may be seized and sold by the Mayor and Commissioners of Health for the use and benefit of the Marine Hospital. (*Same ch.* § 16.)

Designation by colors.

§ 21. Every vessel, during her quarantine, shall be

* "The Board of Police may also, upon any emergency, or apprehension of riot, pestilence, or invasion, appoint as many special patrolmen, without pay, from among the citizens, as it may seem desirable." (1860, *ch.* 259, § 16.)

designated by colors, to be fixed in a conspicuous part of her main shrouds. (*Same ch.* § 17.)

§ 22. No vessel or boat shall pass through the range of vessels lying at Quarantine, or land at the Quarantine grounds or wharves, without the permission of the Health Officer. (*Same ch.* § 18.)

Permit required to pass through range of vessels.

§ 23. No lighter shall be employed to load or unload vessels at Quarantine without permission of the Health Officer, and subject to such restrictions and regulations as he shall impose. (*Same ch.* § 19.)

Lighters not to be employed without permit.

§ 24. All passengers being on board of vessels under quarantine shall be provided for by the master of the vessel in which they shall have arrived; and if the master shall omit or refuse to provide for them, or they shall have been sent on shore by the Health officer, they shall be maintained by the Commissioners of emigration at the expense of such vessel, her owners, consignees, and each and every one of them; and the Health Officer shall not permit such vessel to leave quarantine until such expense shall have been repaid or secured; and the said Commissioners shall have an action against such vessel, her owners, consignees, and each and every one of them, for such expenses, which shall be a lien on such vessel, and may be enforced as other liens on vessels are enforced by said Commissioners. (*Same ch.* § 20.)

Passengers under Quarantine, how provided for.

§ 25. The Health Officer, upon the application of the master of any vessel under quarantine, may confine in any suitable place on shore, any person on board of such vessel charged with having committed an offense punishable by the laws of this State or the United States, and who

Persons charged with offense may be confined on shore.

cannot be secured on board of such vessel ; and such confinement may continue during the quarantine of such person, or until he shall be proceeded against in due course of law ; and the expense thereof shall be charged and collected as in the last preceding section. (*Same ch.* § 21.)

Appeal, to whom to be made.

§ 26. Any person aggrieved by any decision, or order or direction of the Health Officer, may appeal therefrom to the Mayor and Commissioners of Health of the city of New York, who shall constitute a Board of Appeal ; the said Board shall have power to affirm, reverse or modify the decision, order or direction appealed from, and the decision of said Board thereon shall be final. (*Same ch.* § 22.)

Appeal, how made.

§ 27. An appeal to the Board of Appeal must be made by serving upon the Health Officer a written notice of such appeal, within twelve hours (Sundays excepted) after the appellant receives notice of the order, decision, or direction complained of. Within twelve hours after the Health Officer receives such notice (Sundays excepted), he shall make a return in writing, including the facts on which his order, decision, or direction was founded, to the Mayor, who shall immediately call a meeting of the Board of Appeal, and shall be President of said Board ; and said appeal shall be heard and decided within twenty-four hours thereafter (Sundays excepted) ; and until such decision is made, the order, decision, or direction complained of, except it refer to the detention of a vessel, her cargo or passengers, at Quarantine, shall be suspended. (*Same ch.* § 23.)

Health Officer's return of facts.

Decision.

ARTICLE FOURTH.

Of the Regulation of Intercourse with Infected Places.

§ 28. The Mayor of the city of New York may issue his Proclamation by Mayor. proclamation, declaring any place where there shall be reason to believe a pestilential, contagious, or infectious disease exists, or may exist, to be an infected place within the meaning of the health laws of this State. (*Same ch.* § 24.)

§ 29. Such proclamation shall fix the period when it shall Publication of notice. cease to have effect; but such period, if they shall judge the public health to require it, may from time to time be extended by the Board of Health of said city; and notice of the same shall be published in five or more of the newspapers of the city. (*Same ch.* § 25.)

§ 30. After such proclamation shall have been issued, Effect of proclamation. all vessels arriving in the port of New York from such infected place, shall be subject to the same quarantine laws and regulations as the vessels embraced in the first subdivision of the second section of this act, and shall, together with their officers, crews, passengers and cargoes, be subject to all the provisions, regulations and penalties of this act, in relation to vessels subject to quarantine; but such quarantine shall not extend beyond the period when such proclamation shall cease to have effect, as provided by the last preceding section. (*Same ch.* § 26.)

§ 31. The Board of Health may, in their discretion, Intercourse with infected places, by whom regulated. prohibit or regulate the internal intercourse, by land or water, between the city of New York and such infected place; and may direct that all persons who shall come into the

city of New York contrary to their prohibitions and regulations, shall be apprehended and conveyed to the vessel or place from whence they last came ; or, if sick, they shall be conveyed to the Marine Hospital, or such other place as the Board of Health shall direct. (*Same ch.* § 27.)

ARTICLE FIFTH.

Penalties for Violating the Provisions of this Title.

Penalties by
Masters of
vessels.

§ 32. Every master of a vessel subject to quarantine, or visitation by the Health Officer, arriving in the port of New York, who shall refuse or neglect either :

1. To proceed with and anchor his vessel at the place assigned for quarantine, at the time of his arrival ;

2. To submit his vessel, cargo and passengers, to the examination of the Health Officer, and to furnish all necessary information to enable that officer to determine to what length of quarantine and other regulations they ought respectively to be subject ; or,

3. To remain with his vessel at Quarantine during the period assigned for her quarantine, and while at Quarantine to comply with the directions and regulations prescribed by law, and with such as any of the officers of health, by virtue of the authority given to them by law, shall prescribe in relation to his vessel, his cargo, himself, his passengers, or crew, shall be guilty of a misdemeanor, and be punished

by a fine not exceeding two thousand dollars, or by imprisonment not exceeding twelve months, or by both such fine and imprisonment. (1856, *ch.* 147, § 28.)

§ 33. Every master of a vessel hailed by a pilot, who shall either : Penalties by Masters of Vessels.

1. Give false information to such pilot, relative to the condition of his vessel, crew or passengers, or the health of the place or places from whence he came, or refuse to give such information as shall be lawfully required ;

2. Or land any person from his vessel, or permit any person, except a pilot, to come on board of his vessel, or unlade or tranship any portion of his cargo before his vessel shall have been visited and examined by the Health Officers ;

3. Or shall approach with his vessel nearer the city of New York than the place of quarantine, to which he may be directed, shall be guilty of the like offense, and be subject to the like punishment ; and any person who shall land from any vessel, or unlade or tranship any portion of her cargo, under like circumstances, shall be guilty of the like offense, and be subject to the like punishment. (*Same ch.* § 29.)

§ 34. Any person who shall violate any provision of this act, or neglect or refuse to comply with the directions and regulations which any of the officers of health may prescribe, shall be guilty of the like offence, and be subject for each offense to the like punishment. (*Same ch.* § 30.) By other persons.

§ 35. Every person who shall oppose or obstruct the said Health Officer in performing the duties required of him by law, and every person who shall go on board of, or have Punishment for obstructing the Health officer

any communication, intercourse or dealing with any vessel under quarantine, or with any of her crew or passengers, without the permission of the Health Officer, or who shall, without such permission, invade the quarantine grounds or anchorage, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than one hundred nor more than five hundred dollars, or by imprisonment, not less than three nor more than six months in the penitentiary. (1857, *ch.* 412, § 4.*)

§ 36. * * * And such offender shall be detained at Quarantine as long as the Health Officer shall direct, not exceeding twenty days. In case such person shall be taken sick of any infectious contagion, or pestilential disease, during such twenty days, he shall be detained for such further time at the Marine Hospital, as the Health Officer shall direct. (1856, *ch.* 147, § 32.)

Jurisdiction
of courts and
procedure of
trial for vio-
lation of sec-
tion 4.

§ 37. Exclusive jurisdiction of the offenses specified in the preceding fourth section is hereby given to the Courts of General and Special Sessions of the Peace of the city of New York; and it shall be the duty of the District Attorney of the city and county of New York to prosecute all persons guilty of such offenses, in preference to any indictment then in his office; and it shall be the duty of either of the said courts to hear and try the offenses against this act in preference to all other cases pending before it; and whenever any person shall be convicted on a trial for such offense, the Court shall forthwith proceed to pronounce judgment upon him, according to the terms prescribed in this act. (1857, *ch.* 412 § 5.†)

penalty for
other acts.

§ 38. Every person who shall violate the provisions of

* See § 16 and 37 of this compilation.

† See § 39.

this act, by refusing or neglecting to obey or comply with any order, prohibition, or regulation made by the Board of Health, in the exercise of the powers herein conferred, shall be guilty of a misdemeanor, punishable by fine and imprisonment, in the discretion of the court by which the offender shall be tried. (1856, *ch.* 147 § 33.)

§ 39. The courts of General and Special Sessions of the Peace of the city and county of New York shall have exclusive jurisdiction of all offenses against the provisions of this act; and it shall be the duty of the District Attorney of the city and county of New York to prosecute all persons guilty of such offenses without delay. (*Same ch.* § 34.*)

§ 40. Section six of article one of title two of chapter two hundred and seventy-five of the Laws of eighteen hundred and fifty, and sections fifteen and twenty-two of article three of title two of the same chapter of the Laws of eighteen hundred and fifty, and section thirty-five of article five of the same law, and section seventeen of chapter five of title five of part first of the Revised Statutes, together with all laws inconsistent herewith, are hereby repealed. (*Same ch.* § 37.†)

* It will be seen that § 37, having reference only to a section of the Act of 1857, does not conflict herewith.

† *Query.* Was not § 23 intended to have been herein repealed instead of § 17? (The compiler gives the repealing clause as it is contained in the Session Laws.)

TITLE III.

INTERNAL REGULATIONS FOR THE PRESERVATION OF THE
PUBLIC HEALTH OF THE CITY OF NEW YORK.*

ARTICLE FIRST.

Of certain duties and Powers of the City Inspector, the Board of Health, and the Mayor and Commissioners of Health.

City
Inspector.

§ 1. The City Inspector of the city of New York shall have power—

Health
Wardens.

1st. To appoint, with and by the advice and consent of the Board of Aldermen of said city, from time to time, all and so many Health Wardens and other officers, as the Common Council or the Board of Health shall direct, to carry into effect the provisions of this title, and the rules and regulations of the Board of Health, the laws and ordinances of the Common Council of said city, and the laws of this State, relating to the public health. Such Health Wardens and Officers shall be subject to the supervision and control of the City Inspector.

Their duties.

2d. To authorize such officers, at such times as he shall think fit, to enter into and examine in the day-time all buildings, lots, and places of every description within the city, and to ascertain and report to the Mayor and the

* Title 3 of Chapter 275 of 1850 substituted for title 3, R. S.

Commissioners of Health, the condition thereof, so far as the public health may be effected thereby.

3d. It shall be the duty of the City Inspector, on complaint being made to him, or whenever he shall deem any business, trade, or profession, carried on by any person or persons in the city of New York, detrimental to the public health, to notify such person or persons to show cause, before the Board of Health, at a time and place to be specified in such notice, why the same should not be discontinued or removed, which notice shall be a notice of not less than three days (except in case of epidemic or pestilence, the Board of Health may, by general order, direct a shorter time, not less than twenty-four hours), and may be served by leaving the same at the place of business or residence of the parties to be affected thereby. Cause may be shown by affidavit, and the order of the Board of Health shall be final and conclusive thereon.

Duty of City
Inspector on
complaint.

4th. The said City Inspector to give all such directions, and adopt all such measures for cleansing and purifying all such buildings, lots, and other places, and to do or cause to be done, everything, in relation thereto, which, in the opinion of the Mayor and the Commissioners of Health of the city, shall be deemed necessary. Every person who shall disobey any order of the City Inspector, or of the Board of Health, which shall have been personally served upon them to abate or remove any nuisance in the manner and at the time described in such order, shall, on complaint of the City Inspector, or of the person serving such order, before the Mayor or any Police Justice of said city, be liable to arrest, and summary punishment by fine, not exceeding one thousand dollars, or imprisonment not

Cleansing
and purify-
ing build-
ings, &c.

exceeding one year, or by both such fine and imprisonment.

Further
duties.

5th. To adopt such prompt measures, to prevent the spreading of any contagious, infectious, or pestilential diseases, as shall be directed by the Mayor and the Commissioners of Health, when it shall appear to the Mayor and Commissioners of Health that any person within the city is afflicted with any disease of that character.

By-laws and
ordinances.

§ 2. The Mayor, Aldermen, and Commonalty of the city of New York shall have full power and authority to make and pass all such by-laws and ordinances, as they shall from time to time deem necessary and proper, for the preservation of the public health of said city, and also for the abatement and removal of all and every nuisance in said city, and for compelling the proprietors or owners of the lot or lots, upon which the same may be, to abate and remove the same.

Nuisances.

§ 3. It shall be lawful for the said Mayor, Aldermen, and Commonalty, in all cases where they may deem it necessary for the more speedy execution of said by-laws or ordinances, or any of them, to cause any such nuisance or nuisances to be abated or removed at their own expense, and they are hereby authorized to levy and collect the sum or sums so expended, with lawful interest, and all reasonable costs and expenses attending such proceedings, by distress and sale of the goods and chattels of the proprietors or owners of the lots and premises, from which such nuisance or nuisances shall have been abated or removed, or to recover the amount of every such expense, by action in any court of record, from such owner or owners respectively, on whose account the same shall have been

expended, their respective heirs, executors, or administrators; in all which actions they shall, also, recover lawful interest upon the amount of said expense from the time of payment thereof, with full costs of suit.*

§ 4. That the amount of every such expense, which the said Mayor, Aldermen and Commonalty shall incur or pay, as aforesaid, on account of the owner or owners of such lots or premises, for the abatement or removal of any such nuisance or nuisances, shall be a real incumbrance upon the lots and premises from or upon which nuisance or nuisances shall be abated or removed, and shall bear lawful interest until paid, and that the same may be recovered or the payment thereof, with costs, enforced in like manner, as if the said lots and premises were mortgaged to the said Mayor, Aldermen and Commonalty for the payment thereof.

Expense of removing nuisances.

§ 5. It shall be the duty of the Board of Health—

Duties of the Board of Health.

1. To cause any avenue, street, alley, or other passage whatever, to be fenced up or otherwise inclosed, if they shall think the public safety requires it, and to adopt suitable measures for preventing all persons from going to any part of the city so inclosed.

2. To forbid and prevent all communication with the house or family infected with any contagious, infectious, or pestilential disease, except by means of physicians, nurses, or messengers, to carry the necessary advice, medicines, and provisions to the afflicted.

3. To adopt such measures for preventing all communi-

* See Ordinance Approved October 8, 1850.

cation between any part of the city infected with a disease of a pestilential, infectious, or contagious character, and all other parts of the city, as shall be prompt and effectual.

4. To procure suitable places for the reception of persons sick of any pestilential, infectious, or contagious disease, and, in all cases where sick persons cannot otherwise be provided for, to procure for them proper medical and other attendance and provision.

5. To publish, from time to time, all such regulations as they shall have made, in such manner as to secure early and full publicity thereto.

6. To issue warrants to any constable or police officer in said city, to apprehend and to remove such person and persons as cannot otherwise be subjected to the regulations by them adopted; and, whenever it shall be necessary so to do, to issue their warrant to the sheriff of the city and county of New York, to bring to their aid the power of the county; all which warrants shall be forthwith executed by the officers to whom the same shall be directed, who shall possess the like powers, and be subject to the like duties, in the execution thereof, as if the same had been duly issued out of any court of record in this State.

When cargo
may be re-
moved or
destroyed.

§ 6. The Board of Health, or the Mayor and the Commissioners of Health, when they shall judge it necessary, may cause any cargo, or part of cargo, or any matter, or anything within the city, that may be putrid or otherwise dangerous to the public health, to be destroyed or removed; such removal, when ordered, shall be to the Quarantine ground, or such other place as the Board of Health shall direct; such removal or destruction shall be made at the expense of the owner or owners of the property so removed

or destroyed, and the same may be recovered from such owner or owners, in an action of law, by the Mayor, Aldermen, and Commonalty of said city.

§ 7. The Board of Health may send to the Marine Hospital, or such other place as the Board of Health may direct, all aliens and other persons in the city, not residents thereof, who shall be sick of any infectious, pestilential, or contagious disease. The expense of the support of such aliens or other persons shall be defrayed by the Corporation of the city of New York, unless such aliens or other persons shall be entitled to be supported by the Commissioners of Emigration.

Non-resident sick to be sent to Hospital.

§ 8. The Board of Health shall have power to take possession of, and occupy, for temporary hospitals, any building or buildings in the said city, during the prevalence of an epidemic, if, in their judgment, the same may be required, and shall pay for private property so taken, a just compensation for the same.

Temporary hospitals.

§ 9. It shall be the duty of the Mayor and the Commissioners of Health, from time to time, to communicate to the Board of Health all reports that shall be made to them, or either of them, under the provisions of this law; and it shall be the further duty of the Mayor and the Commissioners of Health, and of each of them, so to communicate all all information in their power that may better enable the Board of Health to preserve the health of the city.

Mayor and Commissioners of Health to report.

ARTICLE SECOND.

*Of the Duties of Physicians and other Persons.*Duties of
Physicians.

§ 10. It shall be the duty of each and every practicing physician in the city of New York :

1. Whenever required by the Board of Health, or the Mayor, and the Commissioners of Health of said city, to report to the City Inspector of said city, at such times, and in such forms as said Board may prescribe, the number of persons attacked with any pestilential, contagious, or infectious disease, attended by such physician for the twenty-four hours next preceding, and the number of persons attended by such physician, who shall have died in said city, during the twenty-four hours next preceding such report, of any such pestilential, contagious, or infectious disease.

2. To report in writing, to the City Inspector, the Board of Health, or to the Mayor and the Commissioners of Health, every patient he shall have laboring under any pestilential, contagious, or infectious disease, and within twenty-four hours after he shall ascertain or suspect the nature of the disease.

3. To report to the City Inspector, when required by the Board of Health, the death of any of his patients who shall have died of disease, within twenty-four hours thereafter, and to state in such report the specific name and type of such disease.

Boarding-
house keep-
ers.

§ 11. Every person keeping a boarding or lodging-house, in the city of New York, shall, whenever required by the Mayor and the Commissioners of Health, report in writing to

the City Inspector, the Board of Health, or the Mayor and the Commissioners of Health, the name of every person who shall be sick in his house, within twelve hours after each case of sickness shall have occurred.

§ 12. Every master, owner, or consignee of a vessel, ^{Masters own vessels.} lying at a wharf, or in a harbor of the city of New York, shall make a like report, and within the same period, of the name of every sick person on board such vessel, and no person shall be removed therefrom without a written permit for that purpose from the Board of Health, or the Mayor, or one of the Commissioners of Health.

§ 13. It shall be the duty of each Commissioner of Health, and of each visiting, hospital, and consulting physician, to make an immediate report to the Board of Health, of the name of every practicing physician by whom he shall have reason to believe the provisions of the tenth section of this title have been violated; and, if such physician shall neglect or refuse to perform his duty, the Board shall suspend him from his office, and he shall, moreover, be liable to such further penalty as the said Board shall prescribe. ^{Physicians violating act to be reported.}

ARTICLE THIRD.

Prohibitions and Penalties.

§ 14. The Board of Health shall have power to prohibit, at such times, and for such period and periods of time as they shall see cause, the packing or repacking of any salted provisions in any and all parts of the city. ^{Packing salted provisions may be prohibited.}

§ 15. No salted or pickled beef, pork, or fish (except ^{lb.} smoked beef, and fish), shall be deposited in such part or

parts of the city, during the period or periods of time so prohibited by the Board of Health under the last preceding section.

Exception. § 16. The last preceding section shall not be construed to prevent retail grocers, or other small dealers from keeping on hand, for the use of their customers, small quantities, not exceeding five barrels, of each kind of provisions therein mentioned, if the provisions so kept be sound and in good order.

Prohibited articles when deposited to be reported. § 17. All salted or pickled provisions, and all hides, skins, and cotton, that may be deposited in those parts of the city wherein the Board of Health shall prohibit the packing or re-packing of salted provisions, at the time or times when such prohibition may be made, shall be reported forthwith, by the owner or person having charge thereof, to the office of the City Inspector, that the same may be examined, and, if necessary, destroyed or removed.

To be removed. re- § 18. If such articles, when ordered to be removed by the City Inspector, shall not forthwith be removed by the owner, or person having charge thereof, the City Inspector shall cause them to be removed to some safe place, there to remain at the risk of the owner.

Expense thereof to be borne by owner. § 19. The expense of the removal, and subsequent storage of such articles, shall be borne by the owner or person having charge thereof, when removed, and, if paid in the first instance by the City Inspector, may be recovered by the City Inspector, in an action against such owner or bailee; or, if payment of such expenses be refused by the owner or bailee, the City Inspector may cause such articles to be sold, and shall account for the proceeds, deducting such expenses and the costs of sale.

§ 20. Nothing contained in this article shall be construed to extend to provisions exposed for sale by butchers in the public markets, or kept by heads of families for family use. Exception.

§ 21. Every person who shall refuse or neglect to obey the directions of this article, or of the Board of Health, or City Inspector, pursuant thereto, in relation to the provisions and other articles above mentioned, shall be considered guilty of a misdemeanor, and, on conviction, shall be subject to fine or imprisonment, or both, at the discretion of the Court. Such fine shall not exceed one thousand dollars, and such imprisonment shall not exceed two years. Penalties.

§ 22. No rags, hides, or skins, arriving in the port of New York, shall be deposited in any part of the city, within which the Board of Health shall have prohibited the packing or re-packing of salted provisions, and all such articles, brought into the city contrary to the above provision, may be seized and sold by the Mayor and the Commissioners of Health for the use of the Marine Hospital. Rags, hides, and skins, prohibition.

§ 23. The Board of Health, or the Mayor and the Commissioners of Health, may, however, permit sound hides and skins to be brought into any part of the city, in small quantities, and for the purpose of immediate manufacture, but not otherwise. Exception.

§ 24. It shall be the duty of the master and owner of every vessel that shall have brought cotton into the city, between the first day of May and the first day of November, in any year, and of the owner and consignee of such cotton, Damaged cotton to be reported.

if, upon examination, it shall appear damaged, or otherwise unsound, to make an immediate report thereof to the Mayor and the Commissioners of Health.

Penalty for
neglect to
report.

§ 25. Every master, or owner, or consignee, refusing or neglecting to perform the duties so enjoined, shall, for each offence, forfeit to the Commissioners of Health the sum of five hundred dollars.

Penalty for
violating any
section of
this Title.

§ 26. Every person who shall violate any regulation, order, or direction of the City Inspector, or of the Board of Health, made or given in the exercise of any of the powers vested in them by any section of this title, shall be considered guilty of a misdemeanor, and, on conviction thereof, be subject to fine or imprisonment, or both, at the discretion of the Court. Such fine shall not exceed one thousand dollars, and such imprisonment shall not exceed two years.

Physicians
liable to pun-
ishment.

§ 27. Every practicing physician, who shall refuse or neglect to perform the duties enjoined on him by the tenth section of this Title, shall be considered guilty of a misdemeanor; and shall also forfeit for each offence the sum of two hundred and fifty dollars, to be sued for and recovered by the Board of Health.

Penalties.

§ 28. Every keeper of a boarding or lodging-house, and every master, owner or consignee of a vessel, who shall refuse or neglect to obey the orders and directions of the Mayor and the Commissioners of Health, as provided in the eleventh and twelfth sections of this Title, shall be considered guilty of a misdemeanor; and, on conviction, shall be fined for each offence in a sum not exceeding two hundred and fifty dollars, or be imprisoned for a term not exceeding six months.

ARTICLE FOURTH.

General Provisions.

§ 29. Whenever it shall appear to the Board of Health that any of the provisions of this Act, limited in their operations to a certain period of the year, ought to be extended, the Mayor of the city shall issue his proclamation, extending such provisions to such time as shall be determined on by said Board, and such provisions shall thereupon be extended accordingly, and with the like effect as if the periods mentioned in the proclamation had been herein enacted.

Power to extend provisions of this act.

§ 30. If it shall appear to the Board of Health, while such proclamation is still in force, that the necessity of extending the period therein named has ceased, the Mayor, by a new proclamation, declaring that fact, shall revoke the proclamation issued, pursuant to the preceding section, which shall then cease to have effect.

Mayor may revoke proclamation

§ 31. All fines, forfeitures, and penalties imposed in this act, or under the powers delegated therein, shall be paid to the Health Commissioners, to and for the use of the city of New York, and such as are recoverable by suit shall be sued for by the Commissioners of Health, in their name of office, unless otherwise herein provided.

Fines and Penalties, how collected.

§ 32. It shall be the duty of the Mayor and the Commissioners of Health, and of each of them, to give information to the District Attorney of the city and county of New York, of all offences against the provisions of this act that shall come to their knowledge, that he may prosecute the offenders without delay, in the Court of Sessions of the city.

Offences to be reported to District Attorney.

Suits not to
abate.

§ 33. No suit, that shall be brought by the Board of Commissioners of Health, or the Health Officer, or City Inspector, in their respective names of office, in pursuance of the authority given in this act, shall abate, on account of the death of the officer or officers by whom the same shall be commenced.

Declaratory.

§ 34. The provisions of the foregoing titles of this act shall extend to all diseases which, in the opinion of the Board of Health, or of the Mayor and Commissioners of Health, shall be deemed dangerous to the public health; and nothing in this act shall be construed to interfere with the remedies against nuisances, provided by the common law.

Act to be
printed and
distributed.

§ 35. The Mayor and the Commissioners of Health shall from time to time cause such parts, as they shall deem necessary, of this act to be printed, and shall deliver the same to the respective pilots of the port for distribution to the masters of vessels subject to quarantine.

Duties of
Magistrates.

§ 36. It shall be the special duty of all magistrates and civil officers, and of all citizens of the State, to aid, to the utmost of their power, the Board of Health, and all the Health Officers mentioned in this act, in the performance of their respective duties.

Bills of
Health.

§ 37. Bills of Health to masters of vessels shall be granted by the Mayor.

Repeal.

§ 38. The Act entitled, "An Act concerning Quarantine, and regulations in the nature of Quarantine, at the port of New York," passed May 13th, 1846, is hereby repealed; but such repeal shall be in no wise construed or

deemed to revive any act or part of any act repealed thereby. And all other laws inconsistent with this Act are hereby repealed.

But nothing contained in this act shall be construed as repealing any part of the act entitled, "An Act to amend the Charter of the City of New York," passed April 2d, 1849.

TITLE IV.*

OF THE MARINE HOSPITAL AND ITS FUNDS.

ARTICLE FIRST.

§ 1. The institution belonging to this State, now known as the Marine Hospital, and all the lands and buildings thereon, and all lands and buildings which may hereafter be purchased or erected and designated for such Marine Hospital, or lands and buildings used for quarantine purposes, are hereby vested in the Commissioners of Emigration, to be by them held in trust for the people of this State, and the sole and exclusive control of the same, except in regard to the sanitary treatment of the inmates

Marine Hos-
pital, in
whom vested

* By the original fourth title, the Marine Hospital was placed in charge of the Commissioners of Health, and provision was made for its support by the collection of "Hospital Moneys." By chapter 483 of the laws of 1847, it was transferred to the Commissioners of Emigration, whose offices had been created by chapter 195 of the laws of that year. Since that time, various acts have been passed relative to their powers and duties. Such portions of them as do not refer to the Marine Hospital, or the Officers of Health, have been omitted in this compilation, which is intended to embrace only such laws as strictly relate to the public health.

thereof, is hereby given to the said Commissioners of Emigration, for the purpose of receiving therein all persons for whom bonds may be required, or for whom any bond or bonds may have been given, required, or commuted for, under the provisions of this act, or the acts hereby amended, suffering under or afflicted with any infectious or contagious disease, or other disease, preventing their immediate removal to any more distant hospital, and who shall be sent to such hospital by the direction of the Health Officer, or under his authority. (1847, *ch.* 483, § 1, *as amended*, 1849, *ch.* 350, § 6.)

[Modified, see
post section
4.]

Nurses and
Orderlies, &c

Restriction.

§ 2. The Commissioners of Emigration are authorized to employ, and appoint, and dismiss at pleasure, a [superintendent,*] physicians, and such other officers, nurses, and orderlies, and such servants as they shall deem necessary for the management and care of the Marine and other hospitals used for quarantine purposes, and to pay all needful expenses therefor out of the moneys under their control; but the moneys received under any of the provisions of this act as commutation money, or upon bonds given for or on account of any persons or passengers landing from vessels at the port of New York, or elsewhere, shall not be applied or appropriated to any other purpose or use than to defray the expenses incurred for the care, support, or maintenance of such persons or passengers, nor shall such passengers be entitled to any aid from the Commissioners of Emigration after they shall have left the State of New York, and been absent therefrom for more than one year. Nothing in this act contained shall be deemed to affect the authority of the Board of Health, nor the

* By Sec. 12, Ch. 224, Laws of 1853, the physician of the Marine Hospital is authorized to discharge the duties of Superintendent.

mode of appointment of the Health Officer, Resident Physician, or Commissioners of Health of the city of New York, or to prevent the Health Officer from selecting his own medical assistants, other than those of the Marine Hospital, for any duties required by law to be discharged by him, or under his authority. (1849, *ch.* 350, § 8, *as amended*, 1851, *ch.* 523, § 5.)

§ 3. The Health Officer shall not, by right of office, have ^{Authority of Health Officer.} any other authority over the Marine Hospital or medical charge, as Physician thereof, than is in this act provided. (1849, *ch.* 350, § 14.)

§ 4. There shall be nominated by the Governor, and ^{Physician of Marine Hospital.} appointed by him, with the consent of the Senate, a Physician of Marine Hospital, whose powers and duties shall be as follows :

1. To select and appoint, subject to the approval of the ^{His duties.} Commissioners of Emigration, such and so many assistant physicians, nurses, orderlies, and other employees of the Marine Hospital as may be found necessary for the care, and management of the said Hospital, and the proper treatment of the inmates thereof, and to suspend or remove the same ; but the rate of pay of the said assistant physicians, nurses, orderlies, and other employees, shall be regulated and determined by the Commissioners of Emigration.

2. To have the general charge and control of the Marine Hospital, and to make and enforce such rules and regulations for the government of the same, and the treatment of the sick inmates thereof, as shall seem to him necessary and expedient to maintain the said Marine Hospital as a quarantine establishment.

3. To report to the Health Officer in writing, from time to time, and as often as may be, the persons sufficiently recovered from sickness to be discharged from said hospitals, or any of them.

4. To receive into the Marine Hospitals all persons [sick] of contagious, infectious, or pestilential disease, which may be sent thither by the Health Officer, or under his authority, or under the authority of the Board of Health of the city of New York, except itch and syphilis, which shall not be construed as diseases entitling those suffering from them to be admitted as patients into the Marine Hospital ;

5. And to allow or permit the Health Officer at all times to have free access to the several wards of the Marine Hospital, for the purpose of examining the sick inmates thereof, in order to enable the said officer to judge as to the necessity for detaining the vessels from which said sick may have been landed. (1849, *ch.* 350, § 17 ; *as amended* 1853, *ch.* 224, § 4, *and* 1856, *ch.* 147, § 35.)

Modified as
to assistants.
[See ante § 4,
sub. 1st.]

Salaries.

§ 5. The Physician of Marine Hospital shall have and receive an annual salary of five thousand dollars, to be paid quarterly ; and each of the assistant physicians shall have and receive a salary of one thousand two hundred dollars per annum, to be paid quarterly or monthly, as the Commissioners of Emigration may determine, and in that ratio for any period of service of such physician or assistant, and all salaries and other compensation, of such physician and assistant physicians, and of all nurses, orderlies, and servants, or others necessarily employed in and about the business, care, and proper management of such Marine or other hospital for quarantine purposes, shall be paid by the Commissioners of Emigration, from and out of moneys col-

lected upon the bonds hereinbefore required to be given by the owners or consignees of vessels arriving with and landing passengers at the port of New York, or from the commutation moneys paid upon or in lieu of such bonds, in accordance with the provisions of this act, and all the expenses of such Marine or other hospital for quarantine purposes, shall, as far as practicable, be defrayed by said Commissioners out of and from the moneys and securities in this act specified; but nothing in this act contained shall be so construed as to authorize the payment of any salary or compensation for services rendered by said Commissioners of Emigration, or any of them. (1849, *ch.* 350, § 20.) Restriction.

§ 6. The Physician of Marine Hospital shall present to the Legislature, annually, on or before the first of March, a report of the general condition of the Hospital under his charge, with the statistics of the Institution in detail, and such other information and suggestions in regard to the same as he may deem advisable, and testify the same by his affidavit; he shall also furnish to the Board of Health of the city of New York, and to the Commissioners of Emigration whenever required by them so to do, an official return of the numbers and diseases of the patients in the Marine Hospital. (1853, *ch.* 224, § 9.) Annual report of Physician of Marine Hospital

§ 7. It shall be the duty of the Superintendent of the Marine or other hospital, used for quarantine purposes, to furnish to the Board of Health, as often as may be required, a full and correct report of all persons in the said hospital affected with any contagious or infectious disease, and of all such patients as may die or be discharged as cured; such report shall be countersigned by the agent of the Board of Health, and no persons who may be, or who have been Report of Superintendent.

received as patients affected with contagious or infectious diseases, or under treatment as such, shall be discharged or removed from the Marine or other hospital used for quarantine purposes, without a permit in writing from the Health Officer. (1849, *ch.* 350, § 12.)

Physician to
be Superin-
tendent.

§ 8. The Physician of Marine Hospital shall discharge the duties of superintendent of Marine Hospital, under the Commissioners of Emigration, and without further pecuniary compensation than that allowed him as physician. (1853, *ch.* 224, § 12.)

What alien
passengers
are to be re-
ceived into
Hospital.

§ 9. The Commissioners of Emigration shall receive into the Marine, or other hospital for quarantine purposes, all alien passengers for whom bonds shall have been given, or commutation paid, under the several acts of this State relating to alien passengers arriving at the port of New York, who shall be affected with any contagious or infectious disease, and sent to such hospital by the authority of the Health Officer. They shall defray the expenses of such patients out of the moneys by them received on account of bonds or commutation. They shall also receive and provide for all other patients or passengers who shall have landed from any vessel at the port of New York, affected with any contagious or infectious disorder, who shall be directed to be so received by the Health Officer, or the Board of Health; they shall be entitled to receive for each person so admitted (other than aliens as above mentioned), at the rate of three dollars per week for their support and medical care, which shall be at the expense of the owner or consignee of any vessel in which such person shall have arrived, and from which they shall have landed, and no vessel shall be permitted to leave quarantine until such

expense shall have been paid, or secured to be paid to the satisfaction of the Com. of Emigration or the officer duly authorized by them for such purpose. (1849, *ch.* 350, § 13.)

§ 10. All officers and employees of the Marine Hospital, except chaplains, shall be required to reside within the quarantine enclosure, and the Commissioners of Emigration are hereby directed to provide suitable accommodations for the same. (1853, *ch.* 224, § 7.)

Employees, where to reside.

MISCELLANEOUS PROVISIONS.

§ 1. The Board of Health may supply any vacancy that may occur in the office of either of the Commissioners of Health of the city of New York, whether arising from the temporary inability of the officer to discharge his duties, or otherwise; but the person so appointed shall hold his office only until such inability be removed, or the sense of the Governor, or of the Governor and Senate be declared. (*Part II., ch. V., Title V., § 18, R. S.*)

Vacancies in office of Commissioners of Health, how filled.

§ 2. Whenever any effects of a deceased person, of which the public administrator is authorized to take charge, shall be at the Quarantine at the time of the death of such person, or shall arrive there afterwards, it shall be the duty of the Health Officer, or his deputy, whichever shall be present, to secure the said effects from waste and embezzlement, and immediately to give information of such effects to the public administrator, to cause an inventory, or account thereof, to be taken, and to deliver the same to

Health Officer to take charge of effects of persons dying at Quarantine.

the said public administrator, unless the said property be of such a description as ought not to be removed, or may be ordered to be destroyed under the laws concerning the public health. (*R. S., Part II., ch. VI., Title VI., § 14.*)

Hospital
moneys to be
paid before
vessel pro-
ceeds.

§ 3. The Health Officers shall not grant a permit to any vessel subject to quarantine, to approach the city of New York beyond the place assigned for Quarantine, until satisfactory evidence shall be adduced, that all hospital money demanded from the master of such vessel has been duly paid, or until satisfactory security be given that the same will be paid. (*1854, ch. 172, § 6.*)

Commissioners
of Emi-
gration
to
appoint
agents
to
board ves-
sels.

§ 5. The Commissioners of Emigration may, when in their opinion it shall seem necessary, appoint a proper person or persons, to board vessels from foreign ports at the Quarantine Ground or elsewhere in the port of New York, having on board emigrant passengers, for the purpose of advising such emigrants, and putting them on their guard against fraud and imposition; and the Health Officer is hereby required to prevent any person or persons from going on board such vessels, which may be subject to examination by him, until after the said person or persons, appointed by the Com. of Emigration, shall have had sufficient opportunity to perform their duty. (*1848, ch. 219, § 6.*)

Trustees of
Seamen's
Fund and
Retreat to
contract for
support of
sick.

§ 6. It shall be the duty of the said trustees (*of the Seamen's Fund and Retreat*), to contract with the Health Commissioners for the support of sick and disabled seamen who were subject to quarantine, and shall pay to the said Commissioners the reasonable expenses, so contracted for, of all such sick and disabled seamen, during the time they shall be subject to quarantine, and remain at the Marine Hospital under their direction. (*1854, ch. 172, § 7.*)

PART II.

GENERAL LAWS

RELATIVE TO

PUBLIC HEALTH,

AND TO THE

Abatement of Nuisances.

APPENDIX.

AN ACT OF CONGRESS, RESPECTING QUARANTINE AND HEALTH LAWS.

PASSED FEBRUARY 25TH, 1799.

Quarantine, &c., by the laws of the States, to be observed by the Officers of the U. S.

§ 1. THAT the quarantines and other restraints, which shall be required and established by the health laws of any State, or pursuant thereto, respecting any vessel arriving in, or bound to, any port or district thereof, whether from a foreign port or place, or from another district of the United States, shall be duly observed by the collectors and all other officers of the revenue of the United States, appointed and employed for the several collection districts of such State respectively, and by the masters and crews of the several revenue cutters, and by the military officers, who shall command in any fort or station upon the sea-coast; and all such officers of the United States shall be, and they hereby are, authorized and required, faithfully to aid in the execution of such quarantines and health laws, according to their respective powers and precincts, and as they shall be directed, from time to time, by the Secretary of the Treasury of the United States. And the said Secretary shall be, and he is hereby authorized, when a conformity to such quarantine and health laws shall require it, and in respect to all vessels which shall be subject thereto, to prolong the terms limited for the entry of the same, and the report or entry of their cargoes, and to vary or dispense with any other regulation applicable to such reports and entries: *Provided*, that nothing herein

And to aid in execution thereof.

Secretary of Treasury may vary regulations.

shall enable any State to collect a duty of tonnage or impost without the consent of the Congress of the United States thereto; and *Provided*, that no part of the cargo of any vessel shall, in any case, be taken out or unladen therefrom, otherwise than as by law is allowed, or according to the regulations hereinafter established.

Proviso.

§ 2. That when, by the health laws of any State, or by the regulations which shall be made pursuant thereto, any vessel arriving within a collection district of such State, shall be prohibited from coming to the port of entry or delivery by law established for such district, and it shall be required or permitted by such health laws, that the cargo of such vessel shall or may be unladen at some other place within or near to such district, the collector authorized therein, after due report to him of the whole of such cargo, may grant his especial warrant or permit for the unloading and discharge thereof, under the care of the surveyor, or of one or more inspectors, at some other place where such health laws shall permit, and upon the conditions and restrictions which shall be directed by the Secretary of the Treasury, or which such collector may, for the time, reasonably judge expedient for the security of the public revenues; *Provided*, that in every such case, all the articles of the cargo so to be unladen, shall be deposited at the risk of the parties concerned therein, in such public or other warehouses, or inclosures, as the collector shall designate, there to remain under the joint custody of such collector, and of the owner or owners, or master, or other person having charge of such vessel, until the same shall be entirely unladen or discharged; and until the goods, wares, or merchandise, which shall be so deposited, may be safely removed without contravening such health laws;

Vessels, when prohibited from coming to ports of entry, may be unladen elsewhere.

Proviso.

Goods, &c.,

may be
stored.

and when such removal may be allowed, the collector having charge of such goods, wares, or merchandise, may grant permits to the respective owners, or consignees, their factors, or agents, to receive all goods, wares, or merchandise, which shall be entered, and whereof the duties accruing, shall be paid or secured according to law, upon the payment by them of a reasonable rate of storage, which shall be fixed by the Secretary of the Treasury for all public warehouses and inclosures.

Warehouses
to be erect-
ed.

§ 3. That there shall be purchased or erected under the orders of the President of the United States, suitable warehouses, with wharves and inclosures, where goods and merchandise may be unladen and deposited from any vessel which shall be subject to a quarantine, or other restraint, pursuant to the health laws of any State, as aforesaid, at such convenient place or places therein, as the safety of the public revenue, and the observance of such health laws may require.

LAWS OF 1857, CHAPTER 446.

PASSED APRIL 14, 1857.

§ 27. There shall be an executive department, known as the "City Inspector's Department," the chief officer of which shall be the "City Inspector," and shall have cognizance of all matters affecting the public health, pursuant to the Ordinances of the Common Council, and the lawful requirements of the Commissioners of Health and of the Board of Health. There shall be a bureau in the City Inspector's Department, to be called the "Bureau of Sani-

tary Inspection and Street Cleaning," under the control of an officer, named the "Superintendent of Sanitary Inspection," and who shall render such services as may by ordinance attach to said bureau in cleaning the streets, and in the abatement and removal of nuisances detrimental to the public health of said city. There shall also be a bureau in this department, to be known as the "Bureau of Records and Statistics," and which shall be under the direction of the Registrar of Records, and in which bureau shall be kept all records which may by law or ordinance be required to be kept in said department.

The coroners in and for the city and county of New York shall make return to the City Inspector of all inquisitions taken by them in the said city and county (except those charging homicide or felonious assault, which shall be filed with the clerk of the Court of General Sessions). There shall also be a bureau in this department for the inspection, regulation, and management of the public markets, the chief officer of which shall be denominated "Superintendent of Markets;" and it shall be the duty of the Croton Aqueduct Department, at all times, to permit the City Inspector to order the hydrants to be used for cleansing the streets, provided that such use shall not endanger the general supply of the Croton water, and shall be so used under such regulations as the Croton Aqueduct Board may prescribe.

The City Inspector shall, after the passage of this act, appoint such number of inspectors, and sealers of weights and measures as now, or may hereafter exist, and who shall succeed to all the powers, and perform the duties, and

receive compensation as now by law prescribed, and shall hold office upon the same terms as chiefs of bureaux.

NOTE.—The City Inspector is appointed by the Mayor, with the advice and consent of the Board of Aldermen (1857, *Chap.* 446, §§ 19, 21, 49), the salary being as fixed by Ordinance approved by the Mayor, Dec. 17, 1857.

Extract from Revised Statutes (5th ed., vol. III, Title II).

DUTY OF COUNTY CLERK IN CITY AND COUNTY OF NEW YORK, WHEN INFECTIOUS OR CONTAGIOUS DISEASE MAY PREVAIL IN SAID CITY, IN RELATION TO KEEPING A REGISTRY OF NAMES OF PERSONS AND FIRMS, REMOVING FROM INFECTED DISTRICT.

§ 12. Whenever the Board of Health of the city of New York, or any other competent authority, shall, by public notice, designate any portion or district of said city as being the seat of any infectious or contagious disease, and declare communication with such portion or district dangerous, or shall prohibit such communication, it shall be the duty of the clerk of the said city and county, during the continuance of such disease in such district, to provide and keep in his office a book for the purpose of registering, in alphabetical order, the names, firms, and places of business of any inhabitant of the city, who shall desire such registry to be made. (*Laws 1826, p. 12, § 1 and 2.*)

§ 13. It shall be the duty of all persons and firms usually resident or doing business within such infected district, to register in the book so provided by the said clerk, their names or firms, with the place or places out of such infected district, but within the county of New York, to which they may have removed the transaction of their business, or to which they may desire any notices to be sent or served, or any notes, drafts or bills to be presented for acceptance or for payment. The sum of twenty-five cents may be claimed and received by the said clerk for every such registry; but the book in which the same shall be entered, shall be at all times, during office hours, open to public examination, free of all charges. (*Samc.*)

§ 14. During the continuance of any such disease in such infected district, all drafts, notes, and bills, which, by law, are required to be presented for acceptance or for payment, may be presented for such purpose at the place so designated in such registry ; and all notices of non-acceptance, and of non-payment of any note, draft, or bill, or of protest for such non-acceptance or non-payment, may be served by leaving the same at the place so designated. (*Same.*)

§ 15. In case any person or firm, usually resident or doing business within such infected district, shall neglect to make and cause to be entered in the book so provided, the registry herein required, all notes, drafts, or bills, which by law are required to be presented to such person or firm, for acceptance or for payment, may be presented to the said clerk of the city and county of New York, during the continuance of such disease, at any time during office hours ; and demand of acceptance or payment thereof may be made of the said clerk, to the same purpose and with the same effect as if the same had been presented, and acceptance or payment demanded, of such person or firm, at their usual place of doing business. (*Same.*)

§ 16. In case of the omission to make the registry herein required, all notices of the non-acceptance or non-payment of any note, draft, or bill, or of protest of such non-acceptance or non-payment, may be served on any person or firm usually resident or doing business within such infected district, by leaving the same at the post-office for the said city of New York, which service shall be as valid and effectual as if the notices had been served personally on such person, or one of such firm, at his or their usual place of doing business. (*Same.*)

§ 17. Whenever proclamation shall be made, by the Board of Health or other proper authority of the city of New York, that an infectious or contagious disease in any such infected district has subsided, it shall be deemed to have subsided, for all the purposes contemplated in this title.
(*Same.*)

Laws of 1857---Chapter 396.

AN ACT TO PUNISH NUISANCES AND MALICIOUS TRESPASSES ON LANDS.

PASSED APRIL 13TH, 1857.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

§1. Any person who shall hereafter intrude, or squat, upon any lot or piece of land situated within the bounds of any incorporated city or village, without license or authority from the owner thereof, or who shall place thereon any hut, hovel, shanty, or other structure, without such license or authority, or who shall place, erect, or occupy, within the bounds of any street or avenue of such city or village, any hut, hovel, shanty, or other structure, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by imprisonment in a county jail not exceeding six months, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment.

§2. The owner of any lot or piece of land within the bounds of any incorporated city or village, may give notice to any intruder or squatter who may have heretofore intruded or squatted thereon, or who shall have succeeded to any other intruder or squatter thereon, to quit the same, on a day to be specified, which shall not be less than ten days thereafter, which notice may be left upon the premises, addressed to the occupant or occupants thereof, without specifying their names; and in case such intruder or squatter shall not quit the said premises at or before the expiration of the time specified in such notice, he and they shall be deemed guilty of a misdemeanor, and, upon conviction,

may be punished by fine or imprisonment, or both, in the manner and to the extent provided in the preceding section.

§ 3. The owner of said lot or piece of land upon which any hut, hovel, shanty or other structure shall or may have been placed, without his previous license or authority, may cause the same to be removed and abated, and the intruders or squatters thereon to be removed from the said lot or piece of land, at any time after the expiration of the ten days, or other time specified in the notice in the next preceding section mentioned. (*a*)

(*a*) Frequent complaints are made to the City Inspector—sometimes by the owners of the land—of the existence of nuisances on certain open lots, by unauthorized persons, who have located thereon: for this reason, the foregoing act has been included herein, for information as to the law to effect the removal of such persons, and the abatement of any nuisance.

Laws of 1858---Chapter 226.

PROHIBITING THE DUMPING OF NIGHT-SOIL, &c., INTO DOCKS OR SLIPS.

§ 4. Every person willfully throwing or putting any stones, earth, shavings, night-soil, dirt or rubbish, into any dock or slip in the port of New York, or on any public pier or bulkhead, in said port, shall forfeit and pay to the commissioners the sum of twenty-five dollars for each offense; one-half of all fines recovered under this section shall be for the use of the person or persons lawfully entitled to the occupation of such docks, slips, or piers.

Whenever any horse or cart shall be employed in dumping stones, earth, shavings, night-soil, dirt or rubbish, into any dock or slip, or on any public pier of the port of New York, the fine prescribed by this section shall be a lien, until paid, upon such horse and cart. (*Laws 1857, amended 1858.*)

Laws of 1851---Chapter 415.

IN RELATION TO NUISANCES ON OR NEAR THE BOUNDARY LINES OF THE COUNTIES OF NEW YORK, WESTCHESTER AND QUEENS.

§ 1. Whenever any nuisance shall be erected or continued, on or near the boundary lines of the counties of New York, Westchester and Queens, the same, and the persons by whom such nuisance shall have been erected or continued, may be indicted in either county injuriously affected thereby; and thereupon the same proceeding shall

be had and taken, and the sentence of the court may be enforced in the same manner, as if the said nuisance was situated within the county in which the indictment was found.

§ 2. The record of any conviction under this act shall be filed in the clerk's office of the county in which such nuisance is located; and thereupon process shall be issued to the sheriff of such county to abate such nuisance, in the same manner as if the conviction was had in the county in which the record was filed. (*a*)

(*a*) See R. S., 5th ed., Vol. III, page 1019, Title 4, Art. 2.

Laws of 1860---Chap. 259.

EXTRACTS FROM "AN ACT TO AMEND AN ACT TO ESTABLISH A METROPOLITAN POLICE DISTRICT," &c.

PASSED APRIL 10TH, 1860.

§ 29. It is hereby made the duty of the Metropolitan Police force, at all times of the day or night, within the said Metropolitan Police District (*a*), and the members thereof are accordingly hereby thereunto empowered, to especially preserve the public peace, prevent crime, detect and arrest offenders, suppress riots and insurrections, protect the rights of persons and of property, guard the public health * * * ; remove nuisances existing in public streets, roads, places and highways * * * ; enforce every law relating to the suppression and punishment of crime * * * , or the public health, or any ordinance or resolution of Common Councils, or town or village authorities within the said district, applicable to police, health, or criminal procedure.

* * * * *

§ 30. The several members of the police force shall have power and authority to immediately arrest, without warrant, and to take into custody, any person who shall commit, or threaten, or attempt to commit, in the presence of such member, or within his view, any breach of the peace, or offense, directly prohibited by act of the Legislature, or by any ordinance of the city, town or village within which the offense is committed, threatened, or attempted; but such member of the police force shall immediately and without delay, upon such arrest, convey in person such

(*a*) The Metropolitan Police District is constituted of "the counties of New York, Kings, Westchester, and Richmond, and the towns of Newtown, Flushing, and Jamaica, in the county of Queens." (1860, ch. 259, § 2.)

offender before the nearest magistrate, that he may be dealt with according to law.

§ 51. It shall be the duty of the Board of Metropolitan Police District, to set apart a Metropolitan Sanitary Police Company, and to assign to command of each of said companies either a captain or sergeant of Metropolitan Police, and to assign to each company such special duties, by the rules and regulations, as may be publicly advantageous.

§ 52. The Metropolitan Sanitary Company are hereby empowered, under such distribution of power and duty as may be made by the rules and regulations, to visit and make inspection of all ferry boats, manufactories, slaughter houses, tenement houses, and edifices suspected of or charged with being unsafe (*a*), and to take all necessary legal measures for promoting the security of life or health, upon or in said boats, manufactories, houses and edifices; and to make report of inspection and action in the premises to the Board of Metropolitan Police. Whenever said Board shall be satisfied by such report, that any ferry boat, manufactory, slaughter house, tenement house, or edifice, is maintained in a manner prejudicial to the lives or health of the public, it shall, after due entry upon its minutes of the circumstance, cause complaint to be made, founded upon such report and circumstance, before any magistrate of the Metropolitan District, who shall, in a summary way, upon such complaint, made under oath, issue his proper warrant, reciting therein the name of the member or members of the Metropolitan Sanitary Police Company, for the arrest of the

(*a*) In relation to unsafe buildings, See Laws 1860 (ch. 470, passed April 17, 1860), for an Act entitled "An Act to provide against unsafe buildings in the city of New York."

person in charge of such ferry boat, manufactory, slaughter house, tenement house, and edifice, to the end that he may be brought before such magistrate, and the complaint of insecurity, of the life or health of the public so made, be duly investigated, according to the law of examination into misdemeanors. If said magistrate shall be satisfied, on a summary hearing thereof, that such charge of insecurity of the lives or health of the public, is founded on reasonable and probable cause, he may, by his order, in writing, command any such ferry boat to cease running, or any business in such manufactory or slaughter house to cease, until the cause of complaint aforesaid shall be removed, to the satisfaction of the Board of Metropolitan Police.

§ 53. The Board of Metropolitan Police may, by its order, in writing, cause any tenement house to be cleansed at any time after three days' notice for such cleansing shall have been served upon the owner, landlord or agent thereof, and within such time the same has been neglected. The expense of taking down any edifice, or of cleansing any tenement house, as aforesaid, shall be paid by the Comptroller of the city within which the said edifice or house is situated; a copy of the order of the Board, in writing, together with the bill of expense, countersigned by the Comptroller aforesaid, with a description of the premises and real estate thereof, being filed with the Clerk of the county, shall become and continue a lien for the amount of such repair, with interest upon said premises, to the same effect as a judgment of a court of record, until such time as the Comptroller, on re-imbusement of said expenses and interest, shall, in writing, authorize the said County Clerk to discharge the same.

§ 54. The said proceedings of the Board of Metropolitan

Police, or of the magistrate acquiring jurisdiction as aforesaid, may be removed into the Supreme Court, by *certiorari*, for examination.

The acts of the said Board, when in accordance with the provisions aforesaid, shall be deemed judicial acts.

§ 70. The Board of Police shall, at all times, cause the ordinances of the cities of New York and Brooklyn, not in conflict with the provisions of this act, to be properly enforced (*a*); and it shall be the duty of said Board, at all times, whenever consistent with the rules and regulations of the Board, and with the requirements of this act, to furnish all information desired.

(*a*) See §§ 29, 30 of this act.

Laws of 1860---Chapter 509.

EXTRACT FROM AN ACT ENTITLED "AN ACT TO ENABLE
THE SUPERVISORS OF THE COUNTY OF NEW YORK
TO RAISE MONEY BY TAX FOR CITY PURPOSES, &c.

PASSED APRIL 17TH, 1860.

§ 4. * * * * *

The appropriation hereinbefore provided and authorized for the cleaning of streets, shall apply upon any authorized agreement or contract entered into therefor, for any term of years not exceeding five; and it is hereby declared lawful for the Mayor and Common Council to authorize and make, or cause to be made, any agreement or agreements, contract or contracts, for cleaning the streets of the city of New York, and to which the said, or kindred appropriations apply, for and during a term of years not to exceed five.

* * * * * The proposals for said contracts, shall be advertised in such newspapers as may be designated by said Common Council, and the contract or contracts shall be awarded, as in the judgment of the Mayor and Common Council shall be for the interest of the city.

The work under said contract or contracts, shall be performed under the supervision of the City Inspector.

The party or parties to whom such contract or contracts may be awarded, shall give such surety as may be prescribed by the Mayor and Comptroller.

POWER CONFERRED ON THE COMMON COUNCIL TO MAKE BY-LAWS AND ORDINANCES FOR PROMOTING THE PUBLIC HEALTH, &c.

Revised Act of 1813, Chap. 86, R. S.

§ 267. And be it further enacted, that the Mayor, Aldermen and Commonalty of the said city, in Common Council convened, shall have full power and authority to make and pass such by-laws and ordinances, as they may from time to time deem necessary and proper for the filling up, draining, and regulating, of any grounds, yards, or cellars, within the said city, that may be sunken, damp, or unwholesome, or which they may deem proper to fill up, drain, raise, lower, or regulate; and also, for causing all such lots of ground in the said city, adjoining to Hudson's River, or East River, or Sound, as they may from time to time think proper, to be filled up with wholesome earth or other solid materials, so far into the said rivers respectively, as they shall from time to time deem expedient for promoting the health of said city; and for compelling the proprietors of such lots, to raise and fill up the same with such materials, and in such manner, and within such times, as the said Mayor, Aldermen and Commonalty, shall from time to time direct; and also for filling up, altering and amending, of all public slips in the said city, at such times and in such manner as they may deem proper; and for filling up, or altering and amending all sinks and privies within the said city, and for directing the mode of constructing them in future, and for causing subterraneous drains to be made from the same, where they may think it necessary; and for regulating, or if they find it necessary, preventing the interment of the dead within the said city; and for the better regulating of boarding houses and taverns

in the said city, and the preventing the resort of crowds of disorderly persons to them ; and for preventing the digging or turning up of made ground or grounds, formerly covered with water, during the summer months, without their permission.

MISCELLANEOUS.

EXTRACTS FROM LAWS IN RELATION TO VIOLATION OF ORDINANCES OF COMMON COUNCIL, BEING DEEMED AND PUNISHABLE AS MISDEMEANORS.

Laws of 1833---Chapter II.

PASSED JAN. 23, 1833.

§ 20. It shall be lawful for the Mayor, Aldermen and Commonalty of the city of New York, in Common Council convened, to pass such ordinances as they may deem necessary for the regulating and licensing of keepers of ordinaries, or victualing houses, or where fruit, oysters, clams, liquors, or meats, shall be sold; and for the licensing and otherwise regulating the use and employment of dirt carts, and to prevent or regulate the firing of any fire-arms, the firing or setting off any squibs, gunpowder, rockets, or fire-works, in said city. (a)

§ 21. And all persons offending against such ordinances shall be deemed guilty of misdemeanor, and be punished, on conviction before any of the magistrates described in the second section of this act (the Mayor, Recorder, or one of the Aldermen, or Special Justices of the said city), by a fine not exceeding ten dollars; or in default of the payment of such fine, by imprisonment, provided such imprisonment does not exceed ten days. (b)

(a) In reference to the powers of the Common Council to adopt ordinances "Useful or necessary for the good rule and government of the body corporate, and all officers, inhabitants, and residents of the city, within the limits thereof," valuable information will be derived from reading the Comment of Chancellor Kent on 14th sec. of the Charter of 1730. (*See Kent's Charter and Notes*, pp. 228.)

(b) Made applicable to all penal ordinances. See Laws of 1853, Ch. 228, § 5, on the next page.

Laws of 1853---Chapter 223. (Police Act.)

§ 5. Sections twenty and twenty-one of an act entitled "*AN ACT Relative to the Powers of the Common Council of the City of New York, and the Police and Criminal Courts of said City,*" passed January 23, 1833, shall apply to all penal ordinances passed by the Common Council of said city.

Laws of 1849---Chapter 190.

§ 1. No ashes, offal, vegetables, or garbage shall, at any time, be cast or laid in any street, lane, or alley, in the city of New York, but shall be placed in some suitable vessel, for removal, in such manner as the Common Council of said city shall by ordinance direct.

§ 2. No dross, cinders, shells, straws, shavings, dirt, filth, or rubbish of any kind whatsoever shall, at any time, be cast or laid in any lane or alley of said city, or in any public square or place therein.

§ 3. The Mayor, Aldermen and Commonalty of the city of New York, in Common Council convened, are hereby authorized to declare offenses against the provisions of this act to be misdemeanors, and to prescribe punishment therefor, by fine of not more than ten dollars, and imprisonment in the city prison, of not more than ten days.*

§ 4. The Justices of the Assistant Justices' Courts in said city shall have jurisdiction to hear and determine all complaints arising under this statute.

* Questionable.

PART III.

ORDINANCES OF THE COMMON COUNCIL
OF THE
CITY OF NEW YORK,
RELATIVE TO THE
ORGANIZATION AND DUTIES
OF THE
City Inspector's Department,
AND TO THE
PRESERVATION OF PUBLIC HEALTH.

CHAPTER I.

OF THE CITY INSPECTOR'S DEPARTMENT

ART. I. OF THE GENERAL COGNIZANCE OF THE CITY INSPECTOR'S DEPARTMENT, AND BUREAUX THEREIN.

II. OF THE CITY INSPECTOR, HIS DUTIES, POWERS, ETC.

III. OF THE BUREAU OF SANITARY INSPECTION AND STREET CLEANING.

IV. PENALTY FOR DISOBEYING ORDER OF CITY INSPECTOR, AND PROVIDING FOR COLLECTION OF MONEY EXPENDED FOR THE ABATEMENT OF NUISANCES.

ARTICLE I.

SECTION 1. General cognizance of the City Inspector's Department.

2. Of the Bureaux in the City Inspector's Department.

General cognizance of the City Inspector's Department.

§ 1. The City Inspector's Department shall have cognizance of all matters affecting the public health, pursuant to the Ordinances of the Common Council and the lawful requirements of the Commissioners of Health, and of the Board of Health; of cleaning the public streets; of the superintending, inspection, regulation, and management of the public markets; of the inspection and sealing of weights and measures; and of the location and control of the public pounds. (*R. O. 1859, Ch. VII, Art. I, Sec. 1.*) (*a*)

(*a*) The resolution adopted by the Mayor and Commissioners of Health, by authority of whom this compilation has been made, only requires such provisions of the laws and ordinances as relate to the public health to be included herein. Therefore, while the duties of the City Inspector, and of the Bureau of Sanitary Inspection, are given in full, those which devolve upon officers of the Department, other than which relate to sanitary measures (as, generally, those of the Superintendent of Markets, in the regulation of markets, &c.,) have been omitted.

§ 2. There shall be four bureaux in the City Inspector's ^{Bureaux} _{therein.} Department, as follows :

1. The Bureau of Sanitary Inspection and Street Cleaning.
2. The Bureau of Records and Statistics.
3. The Bureau of Markets.
4. The Bureau of Weights and Measures. (*Same*, § 2.)

ARTICLE II.

SECTION 3. Of the City Inspector.

4. To give bond.
5. Salary.
6. Duty of the City Inspector in relation to nuisances.
7. To remove putrid and unsound meats, dead animals, etc.
8. To cause inspection of sinks, privies, and cesspools.
9. To license night scavengers, and make regulations for their governance.
10. To keep a register of sinks, privies, &c., inspected.
11. To make examination of boarding and lodging houses, when directed by the Board of Health.
12. Id.
13. To obey orders of the Board of Health.
14. To file reports made by measurers and others.
15. To report places dangerous, and measures necessary to be taken to preserve the public health.
16. Id.
17. Id.
18. To keep a registry of deceased persons.
19. To publish weekly report of deaths.
20. In relation to the expenditure of money, and the filing of vouchers in the City Inspector's Department; report of delinquencies therein, and suggestions for the improvement thereof.
21. The City Inspector empowered to enter, and to authorize persons to enter, into any premises in the day-time, etc.
22. The City Inspector may order the abatement of any nuisance.
23. The City Inspector may enforce such order by abatement.
24. Slate for the reception of complaints to be kept at the Police Station Houses.
25. City Inspector permitted to use the Croton water for cleaning the streets.

26. City Inspector may grant permits to empty sinks, privies, etc.
 27. City Inspector, with the written consent of the Mayor, may grant permits for dis-interment, and removal of remains of deceased persons.
 28. Certain powers conferred on the City Inspector in relation to cleaning streets, inspection, regulation and management of markets, etc., etc.
 29. First and Second Clerks ; their duties and salaries.
 30. Messenger and Assistant ; salaries.

City Inspector. § 3. The chief officer of the City Inspector's Department shall be denominated the City Inspector. (1859, *Ch. VII., Art. II., § 3.*)

To give bond § 4. The City Inspector, before entering upon the duties of his office, shall execute a bond to the Corporation, with at least two sureties, to be approved by the Mayor, and filed in the office of the Comptroller, in the penal sum of ten thousand dollars, conditioned for the faithful performance of the duties of his office. (*Same, § 4.*)

Salary. § 5. The City Inspector shall receive an annual salary of five thousand dollars. (*Same, § 5.*)

Duties as to nuisances. § 6. The City Inspector shall take all necessary measures to ascertain every nuisance which may exist in the city of New York, and to cause it to be forthwith removed. (*Same, § 6.*)

To remove putrid and unsound meat, dead animals, &c. § 7. He shall cause all putrid and unsound beef, pork, fish, hides, or skins, all dead animals, and every putrid, offensive, unsound, or unwholesome substance found in any street, or other place in the city, to be forthwith removed and disposed of by removal beyond the limits of the city, or otherwise, so as most effectually to secure the public health (*a*). (*Same, § 7.*)

(*a*) The same as § 386, Ordinance passed May 30, 1849, and amended by § 9 of an Ordinance passed April 15, 1853. The greater part of this article is taken from Ordinances of 1839, and that "Organizing the departments, etc.," passed 1849.

§ 8. He shall inspect, or cause to be inspected, all privies, sinks, and cesspools in the city of New York, and see that the same are built according to law. (*Same*, § 8.)

To cause inspection of sinks, privies, &c.

§ 9. He shall license such persons as may be proper to act as night scavengers, all or any of whom he may at any time displace, and appoint others in their stead; and he shall make such rules and regulations for their government as he may deem proper. (*Same*, § 9.)

To license night scavengers, and make regulations.

§ 10. He shall keep a register, in which he shall enter the situation of all such sinks and privies as he shall authorize to be emptied, and the days on which the emptying thereof shall be required. (*Same*, § 10.)

Register of Inspection of sinks, privies, &c.

§ 11. He shall cause all such boarding and lodging houses as the Board of Health shall direct, to be examined, and shall report to that Board the number of each house, and the name of the street on which it is situated; the name of the tenant or occupant, the number of lodgers or boarders therein, with their names and occupations; the number of apartments therein, and the apartments used as lodging rooms. (*Same*, § 11.)

Examination of Boarding and Lodging Houses.

§ 12. He shall inspect, or cause to be inspected, all houses reported as mentioned in the last section, as often as he shall deem necessary, and at least once in each week between the first day of May and the first day of November, in each year. (*Same*, § 12.)

Ibid.

§ 13. He shall obey all orders and instructions given by the Board of Health, pertaining to the performance of all or any of his duties. (*Same*, § 13.)

City Inspector to obey orders of Board of Health.

§ 14. He shall receive and file in his office all reports

To file reports made

by measur- directed to be made to him by measurers, weigh masters,
ers and oth- and inspectors ; and shall make an aggregate report there-
ers. of to the Common Council during the month of January
in each year. (*Same*, § 14.)

Report places and measures necessary to preserve the public health § 15. He shall, from time to time, report to the Com-
mon Council respecting all lots, yards, buildings, cellars,
alleys, sinks, vaults, cesspools, privies, public and private
docks and slips, and common sewers, which shall require
cleaning, altering or repairing, in order to preserve the
health of the city. (*Same*, § 15.)

Ibid. § 16. He shall report to the Common Council and to the
Board of Health, all circumstances which shall come to his
knowledge, endangering the health of the city, or preju-
dicial thereto. (*Same*, § 16.)

Keep re- cord of or- dinances, &c. § 17. He shall report to the Common Council suitable
ordinances for the correction and removal of nuisances, and
when the same shall be passed, shall record them in his
office, and cause copies thereof to be served on the persons
whose duty it shall be to correct, abate, or remove such
nuisances. (*Same*, § 17.)

To keep a registry of deceased persons. § 18. He shall keep a register of the names of all persons
returned as dead, which shall be open, at all convenient
times, to public inspection. (*Same*, § 18.)

To publish weekly report of deaths. § 19. He shall publish, on Tuesday of each week, in the
Corporation papers, a list of the deaths occurring in the pre-
ceding week, specifying the number of deaths in each ward,
with the sexes, ages, and diseases of the persons so dying ;
and during the month of January in each year, he shall
report to the Common Council, and publish in like manner,
the whole number of deaths in the city during the pre-

ceding year, with the sexes, ages, and diseases of the persons so dying. (*Same*, § 19.)

§ 20. All moneys payable by the Corporation for the performance of contracts, or for work done under or by direction of this department, shall be paid by the Comptroller, in pursuance of the provisions of the Charter; and the City Inspector shall, on the first Thursday of each month, render to the Comptroller a full statement, under oath, of the receipts and expenditures of his department; and all the accounts, vouchers, and certificates, relating thereto, shall be kept and filed in the office of the City Inspector; and he shall superintend the enforcement of all ordinances relating to his department, and have power to employ all necessary assistance for that purpose, and shall report to the Common Council all delinquencies therein; and shall, from time to time, suggest to the Common Council such alterations or improvements in the ordinances connected with the department, or any branch thereof, as he may deem proper. (*Same*, § 20.)

In relation to expenditure of money and filing vouchers in City Inspector's Department.

City Inspector to report delinquencies.

Suggest improvements in the ordinances.

§ 21. He may enter into any premises, at any time between sunrise and sunset, and examine any building, cellar, vault, sink, cesspool, privy, lot, yard or alley, in the city. (*Same*, § 21.)

City Inspector may enter into premises in the day-time.

§ 22. He may, by an order in writing, direct any nuisance to be abated, or unwholesome matter or substance to be removed, and may prescribe the time and mode of doing so, and the place to which such offensive or unwholesome matter or substance shall be removed. (*Same*, § 22.)

City Inspector may order abatement of nuisances.

§ 23. He may cause the nuisance to be abated, or the matter or substance to be removed, in case of a neglect or

May enforce the abatement.

refusal to comply with such order by the person whose duty it is to comply therewith, after he shall have been personally served with a copy of the order. (*Same*, § 23.)

Slate to be kept at police station-houses for reception of complaints.

§ 24. He shall have a slate, with the names of the Street Inspector and Health Warden of each ward, placed in every station house in the city, for the information of the public, and for the purpose of receiving such complaints as may be made in case of neglect on the part of the contractors for cleaning the streets, in performing their work. (*Same*, § 24.)

Croton water may be used for cleaning streets.

§ 25. He shall be permitted by the Croton Aqueduct Board to use hydrants for cleaning the streets, under the regulations of that Board. (*Same*, § 25.)

Permits may be granted to empty sinks, privies, &c.

§ 26. He may grant permission to empty any sink, privy, or cesspool, which may, in his judgment, require to be emptied, when the public health will not be endangered thereby. (*Same*, § 26.)

Permit may be given to disinter and remove remains of deceased persons.

§ 27. He may, with the written consent of the Mayor, grant a permit for the removal of the remains of any person interred within the city, to a place without the same, on the application of a relative or friend of such person, when there shall appear no just objection to the same. (*Same*, § 27.)

Certain powers conferred in relation to cleaning streets, regulation of markets, &c.

§ 28. He shall have such powers and duties as were heretofore imposed on the late Commissioner of Streets and Lamps, relative to the Bureau of "Cleaning streets," and "The inspection, regulation, and management of the public markets," and "The inspection of weights and measures," and "The keeping of the public pounds," so far as the same are not conflicting with other ordinances. (*Same*, § 28.)

§ 29. There shall be two clerks in the City Inspector's office, who shall be denominated First and Second Clerks, and who shall perform such duties connected therewith, as may be required by the City Inspector.

First and second clerks, their duties.

The salary of the First Clerk shall be fifteen hundred dollars per annum. The salary of the Second Clerk shall be twelve hundred dollars per annum. (*Same*, § 29.)

Salaries.

§ 30. There shall be a Messenger in the City Inspector's office, at an annual salary of eight hundred dollars; and an Assistant Messenger, at an annual salary of seven hundred dollars. (*Same*, § 30.)

Messenger and assistant; their salaries.

ARTICLE III.

- SECTION 31. Of the Bureau of Sanitary Inspection; salary of Superintendent.
32. Bond.
33. Duties of the Superintendent of Sanitary Inspection.
34. To make estimates for cleaning the streets.
35. To keep account of the time of employées.
36. To report violation of agreements to clean the streets by contractors; also, in relation to encumbrances.
37. Of the powers of the Superintendent of Sanitary Inspection; to audit accounts for work done; Comptroller not to pay bills without approval and requisition.
38. Superintendent of Sanitary Inspection to be under the direction of the City Inspector.
39. First and Second Clerks in the Bureau of Sanitary Inspection; their services; salaries.
40. Street Inspectors; duties; compensation.
41. Inspectors of meats and articles of food and provision; inspection of slaughter houses, meat shops, and other places; empowered to scize and remove unsound and unwholesome veal, beef, etc., etc., etc.; salaries of Inspectors.

42. Complaint Clerk ; duty of ; salary.
 43. Inspector of scavengers' carts, etc.
 44. Health Wardens ; services required ; compensation.

Bureau of
Sanitary In-
spection.

§ 31. This bureau shall be under the control of an officer to be called the "Superintendent of Sanitary Inspection," who shall receive an annual salary of two thousand five hundred dollars, which shall be inclusive of allowance for a horse and wagon. (*Same Ch., Art. III., § 31.*)

Salary of Su-
perintend-
ent.

Bond.

§ 32. The Superintendent of Sanitary Inspection, before entering upon the duties of his office, shall execute a bond to the Corporation, with one or more sureties, to be approved by the Comptroller, in the penal sum of five thousand dollars, conditioned for the faithful performance of the duties of his office. (*Same, § 32.*)

Duties of Su-
perintendent
of Sanitary
Inspection.

§ 33. The Superintendent of Sanitary Inspection shall have cognizance and charge of the cleaning of the public streets, and the control and management of the Corporation yard. It shall be his duty to cause to be made, annually, an inspection of the sanitary condition of the city, between the first day of November and the first day of June following ; and such inspection shall be made in such manner, and returns of the same be prepared and made in such form, as the City Inspector shall direct. He shall also cause the investigation of all nuisances endangering the public health, and their abatement or removal, in such manner as the City Inspector may direct. He shall supervise all the inspections which are now, or shall hereafter be ordered, to be made by the City Inspector's Department, such inspections to be in accordance with, and returns to be made in such forms as the City Inspector may direct. He shall, from time to time, report to the

City Inspector all facts within his knowledge relating to or affecting the public health. (*Same*, § 33.)

§ 34. The Superintendent of Sanitary Inspection shall make estimates necessary to, or connected with, the cleaning of streets, when required by the City Inspector. (*Same*, § 34.)

To make estimates for cleaning streets.

§ 35. He shall keep correct accounts of the time of men employed in his bureau, and of the work upon which they are engaged, and the expense attending the same, when it is not done by contract, and shall report the same, once in each week, to the City Inspector. (*Same*, § 35.)

To keep accounts of time of employees.

§ 36. He shall forthwith report to the City Inspector all violations of any agreement for cleaning the streets, and every omission or neglect on the part of any person whose duty it is by any law of the State, or by any ordinance or resolution of the Common Council, to inspect the streets or roads, or to prevent any incumbrance thereof, and if such neglect shall occur on the part of any policeman, or officer of the police, he shall, in like manner, report the same, forthwith, to the Police Commissioners. (*Same*, § 36.)*

To report violations of agreements to clean streets; and of ordinances in relation to incumbrances.

§ 37. The Superintendent of Sanitary Inspection shall render such services relative to the duties of the City Inspector's Department, as he may be required by the City Inspector, and for that purpose he shall have, exercise, and possess, all the powers and duties by law or ordinance conferred upon the City Inspector, whilst acting under the direction of the City Inspector. He shall examine, audit, and certify to the City Inspector, all accounts for work

Powers of Superintendent of Sanitary Inspection.

To audit accounts for work done.

* For the duty of Policemen, see *Laws of 1860, Chap. 259, ante, page 65.*

Comptroller
not to pay
bills without
approval and
requisition.

done under his supervision, and no requisition shall be drawn for any bills, accounts, or contracts for cleaning the streets, unless certified by the Superintendent of Sanitary Inspection; and the Comptroller shall not pay any bill or money for the work of street cleaning, either by contract or otherwise, unless the same shall be audited and approved, as herein provided, and approved by the City Inspector, and paid upon his requisition; and no payments chargeable to any appropriation to be disbursed or expended by the City Inspector's Department, shall be made by the Comptroller, unless so approved by the City Inspector. (*Same*, § 37.)

Superinten-
dent to be
under direc-
tion of City
Inspector.

§ 38. The "Superintendent of Sanitary Inspection" shall, in all matters, be under the direction, control, and supervision of the City Inspector; and the "City Inspector" may approve or disapprove all accounts certified by him, and by whom alone all requisitions upon the "Comptroller" for payment thereof, shall be drawn (*Same*, § 38.)

First and
second clerks
in Bureau of
Sanitary In-
spection.

§ 39. There shall be two clerks in this bureau, to be denominated First and Second Clerks to the "Superintendent of Sanitary Inspection," who shall keep the accounts thereof, and prepare all estimates and other papers appertaining thereto, and who shall perform such other duties connected therewith as shall be directed by the Superintendent of Sanitary Inspection. The First Clerk shall receive, annually, for his services, twelve hundred and fifty dollars, and the Second Clerk shall receive an annual salary of one thousand dollars. There shall also be a "Ticket and a Complaint Clerk" in said bureau, who each shall receive an annual salary of eight hundred and fifty dollars. (*Same*, § 39.)

Services.

Salaries.

Ticket and
Complaint
Clerk.

§ 40. There shall be an "Inspector" in each ward of the city, to be called the "Street Inspectors," whose duty it shall be, under the direction of the "Superintendent of Sanitary Inspection," to attend to the condition of the streets in the various wards for which they were appointed, and to report to the "Superintendent of Sanitary Inspection" the condition of the streets, and all violations of any contract for street cleaning, and shall each receive for his services the sum of three dollars per day. (*Same*, § 40.)

Street Inspectors.

Duties.

Compensation.

§ 41. There shall be in said bureau of "Sanitary Inspection and Street Cleaning," an "Inspector, and seven Assistant Inspectors of meats and articles of food and provision," whose duty it shall be, under the direction of the "City Inspector" and the "Superintendent of Sanitary Inspection," to visit and inspect all slaughter houses, meat shops, butcher shops, poultry and fish stands, stores, or other places, kept for the sale or exposure for sale, of any kind of meats, poultry, fish, or any articles of provision or food, in any place in the city other than the "public markets," and seize and remove any and all unsound, unhealthy, putrid or unwholesome veal, beef, pork, fish, poultry, or any article of food, and to take all measures for the detection and prevention of the sale of all such unsound, unwholesome articles of food, and to secure a strict enforcement of the laws and ordinances relative thereto; and make full report of the same to the said Superintendent. The salary of the "Inspector" shall be the sum of one thousand dollars per annum; the salary of each Assistant shall be nine hundred dollars per annum. (*Same*, § 41.)

Inspectors of meats and articles of food, and provisions.

Inspection of Slaughter Houses, Meat Shops, &c.

To seize and remove unsound and unwholesome veal, beef, &c.

Salaries.

§ 42. There shall be a clerk in this bureau, who shall be called the "Complaint and Pay-roll Clerk to the Superintendent of Sanitary Inspection," and perform such duties

Complaint Clerk.

Duty of

Salary. relative to the complaints and pay-rolls of the street cleaning branch of the said bureau, as said Superintendent may direct, who shall receive an annual salary of six hundred dollars. (*Same*, § 42.)

Inspection of Scavengers' carts, &c. § 43. There shall also be an officer in this bureau, to be called the "Superintendent of Night Scavengers' Carts and Dumping Piers," whose duty it shall be to inspect all night-scavengers' carts, and superintend the removal of night-soil at the several piers set apart for that purpose, who shall receive the sum of three dollars per day. (*Same*, § 43.)

Health Wardens. Services. § 44. The Health Wardens of the city shall perform such services in the investigation, abatement and removal of nuisances as the City Inspector or Superintendent of Sanitary Inspection shall or may direct, and they shall be appointed as by law provided, and shall each receive the sum of three dollars per day. (*a*) (*Same*, § 44.)

Compensation.

ARTICLE IV.

SECTION 45. Penalty for disobedience or neglect of order of the City Inspector to abate nuisance.

46. Expense of abatement by the City Inspector, to be paid by person liable, within twelve hours after demand.
47. Penalty for obstructing or molesting the City Inspector, officer of the Board of Health, or person lawfully appointed by the City Inspector.
48. Nuisances, deemed detrimental to public health, may be forthwith abated by the City Inspector.
49. Expense of abatement; how collected from owners.

(*a*) The number of Health Wardens, by resolution of the Board of Health, adopted May 6, 1853, was fixed at one to each ward in the city.

§ 45. Any person who shall neglect or refuse to obey an order of the City Inspector, to remove, correct, or abate a nuisance, by the expiration of the time mentioned in such order, or neglect or refuse to obey any or either of the directions of said order, shall forfeit and pay for every such offence the sum of fifty dollars; and in addition thereto, all the expenses of removing, correcting, or abating such nuisance by the City Inspector. (*Ordinance passed May 14, 1839, entitled: "Of the City Inspector's Department," Title V., § 3.*)

Penalty for
disobeying
order of City
Inspector.

§ 46. If the person who shall be liable to pay the expenses in the last mentioned section, shall not pay the same within twelve hours after demand of payment by the City Inspector, he, or she shall forfeit and pay the sum of twenty-five dollars for every such refusal or neglect. (*Same, § 4.*)

Expenses
of abatement
to be paid.

§ 47. Any person who shall prevent, obstruct, molest, disturb, or hinder the City Inspector [or the Assistant City Inspector], or Assistant of the Board of Health, or any officer, or any person lawfully appointed by the City Inspector to perform any of the duties mentioned in this ordinance, in the performance or discharge of any of their duties, shall forfeit and pay the penalty of fifty dollars for every such offence. (*Same, § 5.*)

Penalty for
obstructing
or molesting
City Inspector
or other
officer.

§ 48. That in all cases when the City Inspector, shall deem it advisable for the public health of said city, forthwith to remove any nuisance in said city, it shall be the duty of said City Inspector to cause the said nuisance forthwith to be abated or removed, at the expense of the owner

Nuisances
may be
forthwith
abated.

or owners of any lot or premises upon which the same may exist. (*R. O.*, 1859, *Ch.* XLV., § 44.) (*a*)

Expenses of
abatement,
w collect-
ed from own-
ers.

§ 49. It shall be the duty of such City Inspector forthwith, after the removal or abatement by him of any nuisance, to prepare a statement in writing showing the expense thereof, and specifying therein the lot or lots, or premises upon which the same existed, and the name or names of the proprietor or proprietors, owner or owners of the same, as far as the same may be ascertained, and particularly specifying the expense of the removal or abatement of such nuisance from each separate lot; and such statement shall be filed in the office of the Street Commissioner; and such proceedings shall be thereupon taken for the collection of the amount of such expense as are provided by law. (*Same*, § 45.)

(*a*) The original Ordinance, as comprised in the Rev. Ord., 1859, § 48-49, above, was approved by the Mayor, October 8, 1859.

CHAPTER II.

OF THE SALE OF MEAT AND ARTICLES OF FOOD.

ART. I.—OF INSPECTION OF ARTICLES OF PROVISION AND FOOD EXPOSED FOR SALE IN THE PUBLIC MARKETS AND OTHER PLACES.

II.—OF THE CLEANLINESS OF MARKETS.

ARTICLE I.

- SEC. 1. Of the Superintendent of Markets; bond.
2. His duty to visit the several markets and cause the removal of unwholesome or unfit articles of food, etc.
3. Duty of Clerks of Markets in relation to unwholesome or stale articles, or blown, plaited or stuffed meat, or measly pork, etc., etc. Penalty for obstructing Clerk in performance of his duty.
4. Sale, or exposure for sale in public markets, of any unwholesome or stale articles of provisions, or meat of diseased animals, etc., prohibited; penalty
5. Bringing into any market any blown, plaited, or stuffed meat prohibited; penalty.
6. Bringing into market gut-fat, head of sheep or lamb, not dressed, etc., prohibited during certain months; penalty.
7. Bringing into market, or offering or exposing for sale, meagre shad, prohibited; penalty.
8. Oysters prohibited in the city from first day of May, to first day of September; penalty.
9. The Mayor to issue licences to persons who may sell fresh meat by the joint or otherwise, in the public markets and other places.
10. Person licensed to be a citizen of 21 years of age; license may be revoked.
11. Prohibition of killing or dressing any fresh meat in places licensed as suitable places for the sale thereof.
12. List of licensed persons, and their places of business, to be kept, etc.
13. In relation to daily visitation of places licensed for the sale of fresh meat therein.

14. Provisions of ordinances in relation to the sale, or exposure for sale of unwholesome articles : also of regulation and police of the public markets extended to apply to all markets for the sale fresh meats.

Superintendent of Markets to give Bond.

§ 1. The superintendent of markets shall, before entering upon the duties of his office, execute a bond to the Corporation, with one or more sureties, to be approved by the Comptroller, in the penal sum of two thousand dollars, conditioned for the faithful performance of the duties of his office. (*R. O., 1859, Ch. VII., Art. 4, § 46.*)

Shall visit Markets.

§ 2. He shall, from time to time, visit the several markets and examine the condition thereof; shall advise and direct the clerks thereof concerning the regulation of the same; shall examine the provisions, vegetables, and other articles of food exposed for sale in the markets or other places, and when he has reason to suspect them to be unwholesome or unfit to be exposed for sale, shall order or cause them to be removed. (*Same, § 47.*)

Examine articles of food exposed for sale therein, &c.

Clerks of Markets to examine articles of food therein

§ 3. It shall be the duty of the said clerks to examine all articles in each of their markets respectively, which they may suspect to be unwholesome or stale, or blown, plaited, raised or stuffed meat, or measily pork, or flesh of animals dead by accident or disease, or known or suspected to be diseased at the killing of the same. And no person shall hinder, obstruct, or molest any clerk in the performance of the duty herein enjoined, under the penalty of fifty dollars for each offense. (*R. O., Ch. XXXV., § 7.*)

Penalty for obstructing Clerk.

Penalty for exposing for sale unwholesome meat, &c.

§ 4. No butcher or other person shall sell, or offer, or expose for sale in any of the public markets, or in any part of the city of New York, any unwholesome or stale articles of provisions, or any flesh of any animal dead by accident

or disease, or known or suspected to be diseased at the killing of the same, under the penalty of twenty-five dollars for each offense. (*Same, Art. V., § 39.*)

§ 5. No person shall bring into any market, or the limits thereof, or offer, or expose for sale, any blown, plaited, raised, or stuffed meat, within the city of New York, under the penalty of ten dollars for each offense. (*Same, § 40.*)

Penalty for bringing into market blown meat, &c.

§ 6. No butcher or other person shall, between the first day of May and the first day of November, in any year, bring into, or place, or suffer, or permit to be brought into, or placed in any market, any untried fat, commonly called gut-fat; nor, at any time or season, the head of any sheep, or lamb, unless the same be skinned and properly cleaned; nor any sheep or lamb, in carcass or quarter, with any foot or trotters thereto; nor any hides or skins, excepting calves' skins, under the penalty of ten dollars for each offense. (*Same, § 41.*)

Gut fat not to be bro't into market.

Nor heads of sheep or lamb not dressed, &c.

Penalty.

§ 7. No person shall, at any time, bring into any market, or sell, or offer or expose for sale, in any public market or other place in the city of New York, any meagre or back shad, under the penalty of ten dollars for every such offense. (*Same, § 42.*)

meagre shad into market prohibited.

Penalty.

§ 8. No person shall bring into the city of New York, or have in his, her, or their possession, in the said city, any oysters between the first day of May and the first day of September, in any year, under the penalty of five dollars for any quantity not exceeding one hundred, and the further penalty of two dollars for every additional hundred. (*R. O. 1859, Ch. XLV., § 46.*)

Oysters prohibited in the city from May to September.

Of the Sale of Fresh Meats, in other Places than the Public Markets.

Licenses to be granted to sell fresh meat in public markets and other places.

§ 9. The Mayor of the city of New York shall, from time to time, issue licenses, under his hand and seal, to so many and such persons as shall, for that purpose, be recommended by the Market Committee, to exercise and carry on the trade and business of butchers, and to sell fresh meat by the joint, or in pieces, or otherwise, in such public markets, and such other places as shall be designated in such recommendation; and all places so designated, other than the present public markets, shall be known as, and called, Markets; and it shall not be necessary, to entitle any person to such license, that he shall have served an apprenticeship with a licensed butcher. (*Ordinance passed Jan. 20. 1843, Title IX, § 1.*) (a)

Qualification.

§ 10. No license shall be issued to any person unless he be an actual resident of the city, a citizen of the United States, of the age of twenty-one years; and such licenses may be annulled or revoked, at the pleasure of the Market

(a) The compiler has been unable to find that the provisions of this ordinance—extending the prohibition of the sale, or exposure for sale, of blown, plaited, or unwholesome meat, &c., to include “places other than the public markets”—have been repealed, although omitted from the edition of Revised Ordinances of 1859. The Amended Charter (*Laws 1857, Ch. 446*), contains the following :

“§ 35. No tax, or penalty, shall hereafter be imposed upon or collected of any person, nor license required for selling, or exposing for sale, upon his, her, or their own premises in said city, any wholesome article of food; nor for selling such articles in such parts of the streets of said city, as may be designated by the Common Council for that purpose.”

The foregoing, having application to the licensing of persons to sell any wholesome article of food “upon his, her, or their own premises,” does not affect the requirements of the ordinances which relate to granting license to butchers to carry on business in the *public markets*. (*See R. O. 1859, § 1, and § 25 to 30.*)

Committee; but all persons receiving a license for a market, other than those now known as public markets, shall pay to the Clerk of the Common Council, for the use of the city, the sum of ten dollars annually. (*Same*, § 2.)

§ 11. It shall not be lawful to kill or dress any fresh meat of any description, in any market licensed as aforesaid, occupied for the sale of such meat, under the penalty of fifty dollars, to be recovered from the person so licensed; and the licenses of all persons violating this section, or suffering, or permitting the same to be violated, shall be forthwith annulled by the Market Committee, after a hearing of the case, upon notice to the party complained of. (*Same*, § 3.)

§ 12. It shall be the duty of the Clerk of the Common Council to make and keep an accurate list of all persons licensed as aforesaid, comprising their names in full, the dates of their several licenses, and their places of business, as designated in said licenses, and to furnish a copy of such list to the Alderman and Assistant Alderman of each Ward, once in every six months, or oftener, if required so to do by the said Alderman or Assistant. (*Same*, § 5.)

In relation to the use of the streets, within the meaning of this section, the Counsel to the Corporation, in an opinion, dated March 9th, 1858, in answer to a resolution adopted by the Common Council, says :

“ Upon reference to the 35th section of the Charter of 1857, as aforesaid, it will be perceived that those parties only are exempted from the payment of taxes or penalties, who expose articles of food for sale in such parts of the street as may be designated by the Common Council for that purpose.

“ It seems clear to me that the Legislature intended, by this section, to leave the designation of the streets, in which no tax or penalty should be paid by those selling provision therein, entirely discretionary with the Common Council, and that parties who sell such provisions in other streets are not to be exempted from the payment of such tax or penalty.

“ I am not aware that the Common Council have ever designated any particular streets, or parts of streets, in which such sales should be made,” etc.

Visitation of places licensed for sale of fresh meat in the several Wards.

§ 13. The Alderman and Assistant Alderman may, and the Street Inspector, or Deputy Health Warden of each Ward, shall visit each day, all markets for the sale of fresh meats in such Ward; and it shall be their especial duty, in all cases, to enforce the provisions of this title. (*Same*, § 6.) (*a*)

Ordinance in relation to sale of unwholesome meat, &c., also regulations, &c., extended.

§ 14. The provisions of this ordinance, in relation to the sale, or exposure for sale, in the public markets, of blown, plaited, raised, stuffed, impure or unhealthy meats of any description, or the flesh of any animal dead by accident or disease, or known or suspected to be diseased at the killing of the same, and all other rules and provisions for the government, regulations and police of the public markets, and butchers therein, shall apply to all markets established for the sale of fresh meats, and to persons licensed under this title, so far as the same are applicable, under the like penalties. (*Same*, § 7.)

ARTICLE II.

- SEC. 9. Superintendent of Markets may employ persons to clean the public markets, remove filth, &c.
10. Superintendent, from time to time, shall report the condition of the markets.
11. The Clerks of Markets shall cause the markets to be cleaned, and filth removed, daily.
12. Regulation in relation to ice-boxes, pickle-casks, &c.; penalty.

§ 9. He [the Superintendent of Markets] may, with the

(*a*) The Revised Ordinances, 1859 [Ch. VII., § 41], provides for the appointment of an "Inspector, and seven Assistants, of Meats and Articles of Food and Provisions," to visit slaughter houses, meat shops, and other places, and to seize and remove all unsound and unwholesome articles of food, &c.

consent of the City Inspector, appoint proper persons to remove dirt and filth from the public markets, and to perform such other services about the public markets as are necessary to cleanse the same, at a specified compensation, and may, with the like consent, at any time remove them, or appoint others in their stead. (1859, *Chap. VII., Art. IV., § 51.*)

Persons may be employed to clean markets.

§ 10. He shall, from time to time, report to the City Inspector, the condition of the several markets, and shall, at all times, be under the direction and control of that officer. (*Same, § 56.*)

Report condition of Markets.

Of the Clerks of Markets.

§ 11. They shall cause all the dirt and filth which shall accumulate in the public markets, and the limits thereof, to be removed daily by the persons appointed for that purpose, as prescribed by section 51. (*Same, § 64.*)

Clerks to cause filth, &c., to be removed from Markets daily.

§ 12. No butcher, or any other person, shall have or keep, in any of the public markets, any refrigerator, ice-box, or cask, containing ice or pickle, unless the same be placed within the limits of, and in the rear of his stall or stand, and be lined with lead or some other metallic substance, so as to be water-tight, and provided with a pipe, of lead, zinc, or copper, leading therefrom to the nearest gutter, under the penalty of twenty-five dollars for the violation of each and every provision of this section. (*R. O. 1859, ch. XXXV., Art. V., § 62.*)

Regulation in relation to ice-boxes, pickle-casks, &c.

Penalty for violation.

CHAPTER III.

OF THE CLEANSING OF SLAUGHTER HOUSES, REMOVAL OF DEAD ANIMALS, &c., FROM THE CITY.

ART. I. TO PROVIDE FOR THE CLEANSING OF SLAUGHTER HOUSES AND REMOVAL OF OFFAL, BLOOD, &c.

II. OF DEAD ANIMALS, BUTCHERS' OFFAL, &c., AND THE REMOVAL THEREOF FROM THE CITY; SPECIFICATIONS FOR CONTRACT TO PERFORM SAID WORK.

ARTICLE I.

- SEC. 1. Slaughter Houses required to be cleansed every day of killing any animal therein.
2. Blood, offal, garbage, &c., to be immediately removed therefrom.
 3. Duty of the City Inspector to enforce the two preceding sections.

Slaughter houses to be cleaned every day of killing.

Penalty.

§ 1. Every butcher, or other person, occupying any slaughter house or building, or who shall or may kill or slaughter, in any slaughter house or building in the city of New York, any animal, shall, on every day when any animal may be so slaughtered or killed therein, cause the slaughter house and yard thereof to be washed out and thoroughly cleansed, under the penalty of ten dollars for each neglect or refusal to comply with this section. (*R. O. 1859, Ch. XLV., § 5.*) (*a*)

Blood, offal, &c., to be removed.

§ 2. Every butcher or other person within this city, immediately after killing or slaughtering any animal,

(*a*) From Ordinance, approved by the Mayor, June 12, 1856.

shall convey, or cause to be conveyed, in tight-covered boxes or barrels, the blood, offal, garbage, and other offensive or useless parts of said animal or animals so killed or slaughtered, to such place as the Common Council, or the City Inspector shall, or may, from time to time direct, under a penalty of ten dollars for each and every neglect or refusal to comply with this section. ^{Penalty}
(Same, § 6.)

§ 3. It shall be the duty of the City Inspector to see ^{Enforcement} that the two preceding sections are enforced. *(Same, § 7.)*

ARTICLE II.

- SEC. 4. Carcass of dead horse not to be exposed in any street, yard, lot, or other place ; penalty.
5. Prohibition of the keeping or leaving in or adjoining any street, lane, alley, or public place or road, or in any yard, lot, or premises, any bones, putrid, unwholesome or refuse meat or beef, or any unsound pork, fish, hides or skins ; or any other unsound, putrid, or unwholesome substances, or offal, garbage, or useless parts of any beeves, hogs, calves, or other cattle ; penalty.
6. Docks set apart for vessels engaged in the removal of offal, dead animals, &c., from the city.
7. Other vessels prohibited from coming in or at said docks, except by permission ; penalty.
8. City Inspector may give directions in relation to said docks, vessels, &c. ; penalty for disobedience.
9. Carts for removal of dead animals required to have license ; penalty.
10. Dead animals prohibited from being thrown into the river ; must be removed by licensed person ; penalty.

11. City Inspector authorized to contract for sale of the right to remove dead horses and other animals, blood, offal, and other refuse matter and nuisances, to highest bidder, for term of five years, as per specifications.
12. Duty of citizens and Street Inspectors, to give notice of death of any animal owned or possessed by him, or by any person on whose premises such animal may be found, and cause such dead animal to be removed.
13. Burial, or the throwing of any dead animal into the waters bounding the city, prohibited; penalty.
14. Removing, skinning, or interfering with any dead animal, except to remove the same, prohibited within certain limits; penalty.
15. Duty of Street Inspectors and Deputy Health Wardens to give notice, or cause dead animals to be removed.

Of Dead Animals, Offal, &c., and the Removal thereof.

Carcass of
dead horse
not to be ex-
posed or cast
into street or
other place.
Penalty.

§ 4. No person shall leave exposed, or cast into any street, yard, lot, lane, or other place within the city of New York, the carcass of any horse, under the penalty of twenty-five dollars for each offense. (a) (1859, *Ch. XLV.*, § 8.)

Keeping or
leaving any
bones, re-
fuse meat,
unsound
pork, fish,
hides, &c.,
prohibited.

§ 5. No person shall cast or leave, or keep in or adjoining any street, lane, alley, avenue, square, public place, public road, or in any yard, lot, field, or premises, in the city of New York, any bones, putrid, unsound, unwholesome, or refuse meat or beef of any animal, whether salted or otherwise, or any unsound pork, fish, hides or skins of any kind, or horns; or the whole or part of any dead animals, or any other unsound, putrid, or unwholesome substances; or the offal, garbage, or other offensive or useless parts of any beeves, calves, sheep, hogs, or other cat-

(a) Ordinance passed April 23, 1839.

tle, under the penalty of fifty dollars for every such offense.
(*Same*, § 9.)

§ 6. There shall be designated and set apart, for the use of the City Inspector, two of the docks and slips of the city of New York; one on the East River and the other on the North River: said docks and slips shall be under the sole control and direction of the City Inspector, and shall be used by him as a place of landing for such boats as may be required for the removal of the butchers' blood and offal, bones, dead animals, and other refuse substances from the city. (*a*) (*Same*, § 10.)

Docks for removal of offal, dead animals, &c., set apart.

§ 7. No ship, boat, or other vessel, shall come in, or lay at or within, any of said docks or slips, designated as aforesaid, unless by written permission of the City Inspector, under the penalty of twenty-five dollars for each offense, to be paid by the owner, master, or person having charge thereof, severally and respectively. (*Same*, § 11.)

No other vessel to come to said docks

Penalty.

§ 8. The City Inspector may give such order or direction as he may deem proper, directing the laying, fastening, or berth of any boat or vessel lying at or within said docks and slips; and may direct the same to be removed, from time to time, as he may deem just and proper; and, for every neglect or refusal to comply with such order or direction, the owner, master, or person having charge of such boat or other vessel, shall forfeit and pay the sum of twenty-five dollars. (*Same*, § 12.)

City Inspector may give directions in relation to said docks, vessels, &c.

Penalty for disobedience

§ 9. The contractor or contractors, for removing the aforesaid dead animals, bones, and other refuse substances, shall furnish, from time to time, a suitable number of carts, to be licensed, under the hand and seal of the City Inspector.

Carts for removal of dead animals &c., required to be licensed.

or, for the purpose of transporting and removing said dead animals, bones, and other refuse substances in said city; and no person shall transport or remove any dead animals, bones or refuse substances in said city, unless
 Penalty. licensed as aforesaid, under the penalty of twenty-five dollars for each offense, to be recovered from the person or persons so removing, or the owner or owners of the vehicle used for that purpose, severally and respectively. (*Same*, § 13.)

Dead animals not to be thrown into the river, but to be removed.
 § 10. No dead animal shall be cast or thrown into [the] East or North Rivers, or any water within the limits of said city, but shall be removed, by the person licensed as aforesaid for that purpose, to the docks and slips of the City Inspector, under the penalty of twenty-five dollars for each offense. (*Same*, § 14.)
 Penalty.

City Inspector authorized to contract for the removal of dead horses and other animals, blood, offal, &c.
 § 11. The City Inspector hereby is authorized and directed immediately to advertise, for thirty days, proposals for the sale of, and then, in conformity to the provisions of the laws of the State, to sell to the highest bidder, who shall furnish adequate security, the right and privilege of collecting and removing dead horses, and other dead animals, blood, offal, and other refuse matter and nuisances, in accordance with the following specifications, for the term of five years next thereafter; the contract to be prepared by the Counsel to the Corporation.

Specification
Specification First. The contractor shall collect, and remove from all parts of the city to the dock and slip at the foot of Forty-fifth street, East River, or to such other docks or slips as the Common Council may, at any time or times hereafter designate and provide, all dead horses and other dead animals, and shall, at all times, provide and keep, at his own cost and expense, such number of suitable carts as shall

be necessary for a prompt and faithful performance of such work ; said carts shall be approved and licensed by the City Inspector.

Specification Second. The contractor shall, at all times, provide and keep, at such dock or slip as aforesaid, a suitable number of suitable boats, scows, barges, or vessels, for receiving, and shall receive therein, all dead horses, and other dead animals, and all blood, offal, and other refuse matter from butchers' slaughter houses, and all bones, fish, fish offal, diseased or tainted meats, and all other nuisances of a similar kind, which may or shall be offered, by any person or persons, at such dock or slip.

Specification Third. The contractor shall furnish, at his own cost and expense, suitable boxes for the reception of all orders or complaints ; the same to be placed, one at each police station-house in the city, and one at the office of the City Inspector, and to cause all orders and complaints to be collected from each and every station-house, and from the office of the City Inspector, at least twice every day ; and shall cause all dead animals to be removed, in accordance with the contract, as soon as possible after the reception of any such order or complaint, or other notice.

Specification Fourth. The contractor shall, at least once in every day, remove all such dead horses, animals, blood, offal, and other matters and nuisances as aforesaid, to some suitable and proper place, or places, beyond the limits of the city ; and whenever the City Inspector shall so direct, such removal shall be made twice in each day, during the months of June, July, August, and September.

Specification Fifth. Approved sureties, to the amount of 10

thirty thousand dollars, will be required for the faithful performance and execution of the contract, to the end of the term, which security shall be renewed within three weeks of the close of the year. In every respect, the work to be performed as required, and any neglect or refusal on the part of the contractor to perform the whole, or any part of the stipulations of the contract, or of the requirements of these specifications, shall be sufficient to empower and authorize the City Inspector to proceed to perform so much thereof as shall be neglected or refused, at the expense of and chargeable by the Corporation to the contractor and his sureties, and such refusal or neglect shall authorize and empower the Common Council, at any time, to revoke and annul such contracts.

Specification *Specification Sixth.* The bid shall state the amount which the bidder will pay per annum for such right and privilege, which amount shall be paid by the contractor to the Comptroller, in equal quarterly sums, at the end of each quarter.

Specification Seventh. A strict compliance with the provisions of the chapters relating to "Contracts for supplies, and work done for the Corporation," and amendments thereto, will be observed and required.

Specification Eighth. Should the person or persons, to whom the contract shall be awarded, fail to attend with his or their sureties, and to execute the same in writing, within three days after being notified that such contract is ready, he or they shall be considered as having abandoned it, and shall forfeit all right to such award. (*R. O. 1859, Ch. XXX., § 19.*) (*a*)

(*a*) The foregoing was originally embodied in an Ordinance passed Dec. 14, 1855.

* § 12. It shall be the duty of every citizen, owning, possessing, or having any animal which shall die within the limits aforesaid (a), or in the occupation of any lot of ground, dwelling houses, or premises of any description, upon which the body of any dead animal shall be found, and of the several Street Inspectors of the several wards in this city, immediately after such death or the discovery thereof, to give notice thereof, and of the place where the body of such animal may be found, at one of the offices, so to be established as aforesaid (by the contractor for the removal of dead animals), or to transport, or cause to be transported, the body of any such dead animal to the depot aforesaid, under the penalty of ten dollars for each offense. (*Ord. passed Nov. 25, 1842, § 4.*)

Duty of citizens and others to give notice, to secure the removal of dead animals

Penalty.

* § 13. The burial of any dead animal within the limits aforesaid, or throwing of any body of any dead animal into the waters bounding this city, or in any public street, highway or place within the limits aforesaid, is hereby prohibited, under the penalty of ten dollars for each offense. (*Same, § 6.*)

Burying or throwing overboard any dead animal prohibited.

Penalty.

* § 14. All persons are hereby prohibited from removing or skinning, or molesting or injuring, or in any manner interfering with the body of any dead animal, within the limits aforesaid, except to remove the same, or cause it to be removed to the depot aforesaid, under the penalty of ten dollars for each offense. (*Same, § 9.*)

Removing or skinning dead animals prohibited.

Penalty.

* § 15. It shall be the duty of the several Street Inspectors and Deputy Health Wardens, immediately after the

Duty Street Inspectors and Deputy Health Wardens.

* The sections 12, 13, 14 and 15, are from an Ordinance passed Nov. 25, 1842—and, although not included in R. O. of 1859, they do not appear to have been repealed.

(a) South of Fiftieth street, see Ordinance passed Nov. 25, 1842.

death of any animal, or the discovery thereof, to give notice of the place where the body of such animal may be found, at one of the offices to be established as aforesaid, or to transport, or to cause to be transported, the body of any such dead animal to the depot aforesaid. (*Same*, § 10.)

CHAPTER IV.

OF THE KEEPING OF SWINE, AND THE REGULATION
OF SWILL CARTS.

- SEC. 1. Keeping of swine in the city of New York prohibited, except by written permission of the Mayor and City Inspector.
2. Boiling of butchers' offal, hotel offal, and swill, prohibited within limits of the city.
 3. Violation of preceding section declared to be a misdemeanor; penalty.
 4. Repeal of conflicting ordinances.
 5. Regulation in relation to the keeping of swine; number which may be kept, between the first day of May and the last day of October; penalty.
 6. Pens or styes to be cleansed during said period, at least every three days; penalty.
 7. Neat cattle and swine prohibited from being permitted to go at large; penalty.
 8. Carts and wagons for the conveyance of swill, prohibited from standing in the street; penalty.
 9. Exemption.
 10. Boxes, &c., for conveying swill therein to be water-tight; penalty.

§ 1. No person or persons shall have, keep, or own any swine on or upon any lot or premises in this city, unless by the written permission of the Mayor and the City Inspector, under the penalty of twenty-five dollars for every swine so kept in violation of this section. (*Ord. passed Oct. 3, 1859, § 1.*)

Keeping of swine prohibited, except under permit.

§ 2. No person or persons shall, upon any premises

Boiling of offal or swill prohibited.

within the limits of the city, boil any butchers' offal, hotel offal, or house swill. (*Same*, § 2.)

Penalty for violation.

§ 3. The violation of any of the provisions of section two of this ordinance is hereby declared to be a misdemeanor, and shall be punished by a fine of not less than twenty-five dollars, or by imprisonment in the city prison for a term of not less than twenty days. (*Same*, § 3.) (a)

Repeal of conflicting ordinances.

§ 4. All ordinances or parts of ordinances inconsistent or conflicting herewith, are hereby repealed. (*Same*, § 4.)

Regulation of the keeping of swine.

§ 5. No person or persons shall have or keep, in the city of New York, in any pen or sty, more than three swine; [nor in the same yard or enclosure, more than four swine], at any one time, between the first day of May and the last day of October, in each year, under the penalty of five dollars for every swine above the aforesaid number. (*R. O. 1859, Ch. XLVIII*, § 13.) (b)

Penalty.

Cleansing of pens or styes

§ 6. All swine in said city shall be kept in pens or styes during the period mentioned in the 13th section of this chapter, which styes shall be properly and effectually cleaned at least once in every three days, under the penalty of five dollars for each and every violation of either of the provisions of this section. (*Same*, § 14.)

Penalty.

Neat cattle or swine not to go at large.

§ 7. No neat cattle shall go at large in any of the streets, lanes, alleys, piers, wharves, or public places in the city of New York, within the lamp and watch district; (c) nor any swine in any part of the city of New York, under

(a) See Appendix to Laws.

(b) See *Ch. XXXVIII, R. O. 1845, amended June 18, 1850*. The words in brackets are not contained in the Revised Ordinances of 1850.

(c) For limits of lamp and watch district, as established by ordinances, see "Supplementary Ordinances," herein.

the penalty of five dollars for every such swine or animal which shall be found at large, to be paid by the owner or person having charge, care or keeping thereof, severally and respectively. (*Same*, § 1.) (*a*) Penalty.

§ 8. No cart, wagon, or other vehicle, in or upon which there shall be any box, hogshead, barrel, cask, or other vessel, used, or intended to be used, for the purpose of containing or conveying the article commonly called swill, shall, when not in actual use, incumber or stand in any of the streets, lanes, or alleys in the city of New York, under any pretense whatever, under the penalty of five dollars for each offense, to be recovered from the owner or person having charge of any such cart, wagon, or other vehicle, severally and respectively. (*R. O.* 1859, *Ch. XLV.*, § 35.) Carts and wagons conveying swill not to stand in the street.
Penalty.

§ 9. The last preceding section shall not be construed to prevent such vehicles, not exceeding four in number, from standing at, or in front of the premises from which such swill is obtained, for the purpose of receiving such swill, but not elsewhere; provided the said vehicles do not stand abreast of each other. (*Same*, § 36.) Exception.

§ 10. All carts and other vehicles, used by any person or persons to carry or transport any swill or garbage, shall have water-tight boxes, or other vessels, so as to prevent the contents from leaking, spilling, or scattering on the streets, under the penalty of one dollar for each and every offense, on conviction thereof before any magistrate of the city. (*Same*, § 37.) Boxes, &c., for the conveyance of swill therein must be water-tight.
Penalty.

(*a*) All swine or neat cattle found at large in violation of the above may be impounded by any person, who shall receive from the pound master one dollar for each beast or animal, and if the animal impounded remain unclaimed five days, the same may be sold. (*R. O.* 1859, *Ch. XLVIII.*, §4, 6, 7.)

CHAPTER V.

OF SINKS, PRIVIES, AND CESSPOOLS; REMOVAL OF NIGHTSOIL, &c., FROM THE CITY.

- SEC. 1. Regulation as to depth, etc., of sinks, privies, and cesspools constructed in the city of New York, south of 14th street; penalty.
2. Prohibition of the enclosing or covering over of any sink, privy, or cesspool, until the same has been examined and measured by the City Inspector, or Health Warden; penalty.
 3. No sink, privy, or cesspool to be constructed within thirty feet of a public well or pump; penalty.
 4. Sink, privy, or cesspool to have at least two feet of solid earth, or mason work, from the interior line and the adjoining lot; penalty.
 5. Prohibition of covering over any privy full, or partly full, or of the drawing off the contents into any hole, or place dug to receive the same; penalty.
 6. Owner or occupant of any house, store, or premises, not to permit contents of privy to rise within two feet of surface of the earth; penalty.
 7. Emptying, or removal of contents of sinks, privies, and cesspools prohibited, except by express permission of the City Inspector, between the last day of May and the last day of September; penalty.
 8. Hours during which night scavengers may perform their work; penalty.
 9. Prohibition of the contents of sink, privy, or cesspool being permitted to run in, or upon, any street, wharf, or pier; penalty.
 10. Prohibition of throwing garbage, offal of fish or poultry, or any dead animal, into any sink, privy, or cesspool; penalty.
 11. Regulation in relation to the use of tubs in sink, privy, and necessary house; to be tight with copper, brass, or iron hoops; penalty.
 12. Contents of tubs used in privies, &c., not to be permitted to rise within three inches of the top; penalty.
 13. Tubs, boxes, &c., used in removal of the contents of sinks, privies, &c., to be tight, and closely covered, and to be approved by the City Inspector; penalty.

14. Prohibition of the contents of any tub, box, cask, sink, or privy being thrown into the North or East River, south of 42d street ; exceptions ; penalty.
15. Wharves or piers designated for use of vessels to come for the removal from the city, of nightsoil, &c.
16. Contents of sink, privy, &c., south of 42d street, not to be removed without permission from the City Inspector ; penalty.
17. City Inspector, or Health Warden, to make an annual examination of each sink or privy in each ward or district ; notice to cause sink or privy to be emptied forthwith, to be given to owner or agent.
18. Contract for term of five years to be made for the removal of night soil, &c., from the city, by means of vessels, &c.

Of Sinks and Cesspools.

§ 1. No sink, privy or cesspool shall hereafter be constructed or made, in any part of the city of New York, south of Fourteenth street, unless the same shall be constructed of brick or stone, and be at least ten feet in depth from the surface of the ground, when such depth is practicable, under the penalty of fifty dollars, to be recovered from the owner and builder of the same, severally and respectively. (*R. O.* 1859, *Ch.* XXX, § 1.) (*a*)

Regulation concerning the depth of sinks, privy

Penalty.

§ 2. No person shall inclose or cover any sink, privy or cesspool, or arch over, or place upon the same, any house, shed or covering, until such sink, privy or cesspool shall have been examined, and measured by the City Inspector, or the Health Warden of the ward in which the same may be, under the penalty of twenty-five dollars for every such offense, to be recovered from the owner and builder of the same, severally and respectively. (*Same*, § 2.)

Sinks, &c., not to be covered over or enclosed until examined and measured.

Penalty.

§ 3. No privy, sink or cesspool, shall hereafter be made

Sink not to be built

(*a*) § 1 to 12, inclusive, are taken from Ordinance passed May 14, 1839.

30 feet of
public well.
Penalty.

or constructed, within thirty feet of any public well or pump, under the penalty of one hundred dollars, to be paid by the owner and builder thereof, severally and respectively. (*Same*, § 3.)

Sinks, privies, &c., to have at least two feet of earth or mason-work, &c.

§ 4. No person shall dig any sink or cesspool, or build or erect any privy, without leaving at least two feet of solid earth, or solid mason work laid in mortar or cement, to be measured from the interior line of said sink, between such sink, cesspool or privy and the adjoining lot, under the penalty of twenty-five dollars, to be paid by the owner and builder thereof, severally and respectively. (*Same*, § 4.)

*Privies, full or partly full, not to be covered over.

§ 5. No person shall cover over any sink or privy that may be full, or partly full, nor draw off the contents thereof into any hole or place dug or made to receive the same, under the penalty of twenty-five dollars, to be recovered from the owner of such premises, or the person doing the same. (*Same*, § 5.)

Contents not to be permitted to rise within two feet of surface of the earth.

§ 6. The owner or occupant of any house, store, building or premises, to which any sink, privy or cesspool shall belong or appertain, shall not permit the contents thereof to rise within two feet of the surface of the earth, under the penalty of twenty-five dollars, to be recovered from the owner or occupant thereof, severally and respectively. (*Same*, § 6.)

Sinks, privies, &c., not to be emptied during summer months without express permission.

§ 7. The owner or occupant of any house, lot or premises in the city of New York, shall not empty or remove, or cause, or suffer, or permit to be emptied or removed, the contents of any sink, privy or cesspool, between the last day of May and the last day of September in each year, without the express permission of the

City Inspector, obtained for that purpose, under the penalty of twenty dollars for each offense. (*Same*, § 7.) Penalty.

§ 8. The owner or occupant of any house, lot or premises, shall not cause, or suffer, or permit, any tub used in any necessary house, sink or privy, to be removed, except between the hours of eleven in the evening and three o'clock in the morning, from the first day of May to the last day of September, in any year; and between the hours of ten o'clock in the evening and six in the morning, during the remainder of the year, under the penalty of ten dollars for each offense. (*Same*, § 8.) Hours during which scavengers may perform their work
Penalty.

§ 9. No person shall cast, lay, or suffer to run in or upon any street, wharf, or pier, or in any slip, or dock, or upon or within the distance of three feet of any wharf, or in any lane, alley, lot, or vacant place to the southward of Fourteenth street, the contents of any sink, tub, privy, or cesspool, under the penalty of ten dollars for each offense. (*Same*, § 9.) Contents of sinks, privies, &c., not to run in or upon any street, &c.
Penalty.

§ 10. No person shall throw or deposit, or cause, or suffer to be thrown or deposited, in any sink, privy, or cesspool, any vegetable substance, or garbage, or offal of fish or poultry, or any dead animal, under the penalty of twenty-five dollars for every such offense. (*Same*, § 10.) Garbage, offal, &c., not to be thrown into any sink, privy, or cesspool.
Penalty.

§ 11. The owner or occupant of any house, lot, or premises in the city of New York, shall not cause, or suffer, or permit any tub to be used in any necessary house, sink, or privy, appertaining or belonging to such premises, unless such tub shall be made perfectly tight, and well secured with copper, brass, or iron hoops and handles, under the penalty of ten dollars, to be recovered from the owner or occupant, severally and respectively. (*Same*, § 11.) Regulation in relation to the use of tubs in sinks, privies, &c.
Penalty.

Contents of tubs used in privies not to be permitted to rise within three inches of the top.

§ 12. The owner or occupant of any house, store, building, or premises to which a sink, privy, or necessary house shall belong or appertain, in which tubs shall be used, shall not suffer or permit the contents thereof to rise within three inches of the top of said tub, under the penalty of ten dollars for each offense, to be recovered from the owner or occupant, severally and respectively. (*Same*, § 12.)

Tight tubs, boxes, &c., only to be used in emptying sinks and privies.

§ 13. No person shall empty or remove the contents of any tub, sink, or privy, in the city of New York, otherwise than in tubs, boxes, or casks, made tight, and closely covered; each tub, box, cask, and cover to be approved by the City Inspector; and any person who shall use for such purposes any tub, box, cask, or cover, other than those approved as aforesaid, shall forfeit and pay the sum of fifty dollars for each offense. (*Same*, § 13.) (*a*)

Penalty.

Contents of sinks and privies not to be cast into the river.

§ 14. It shall not be lawful for any person or persons to throw the contents of any tub, box, cask, sink, or privy into the North or East Rivers, south of Forty-second street, save and except under the circumstances hereinafter mentioned, under the penalty of fifty dollars for each offense. (*Same*, § 14.) (*b*)

Wharves for the vessels employed in removing night-soil.

§ 15. The several wharves or piers, on the North and East Rivers, where the contractors for cleaning the streets are permitted to heap up manure, excepting pier No. 1, East River, are hereby designated and set apart for vessels to come and be fastened to, subject to the directions and regulations of the City Inspector. A pier in the First Ward, to be selected by the Alderman

(*a*) § 13 to 17, inclusive, are embodied in the R. O., from an Ordinance passed January 31, 1845.

(*b*) For Act of the Legislature, prohibiting the dumping of night-soil into the river, see Appendix.

of that district, for the same purpose, from which piers and in which vessels the night scavengers shall deposit the contents of tubs, boxes, casks, sinks, and privies, provided the same shall not be what is called "water;" and it shall be lawful for the night scavengers to ask, demand, and receive therefor, from the owner of such vessel, or vessels, the sum of twenty-five cents for each and every full load of twenty-four cubical feet; but in case there shall not be at the time a vessel or vessels at said wharves, or piers, capable of containing or receiving the contents so removed, or in case the contents shall, at any time, be what is called "water," then, and in each of the cases above mentioned, the night scavengers may deposit the contents of the tubs, boxes, casks, sinks, or privies, from the ends of the said piers; or if vessels shall be lying at the ends of said piers, from a point as near as practicable to the outer ends of the said piers, into the river; and in case any night scavenger, or other person shall deposit the contents of any tub, box, cask, sink, or privy at any other wharf, or from any other pier, than those before mentioned, then such night scavenger, or other person, shall forfeit and pay the sum of fifty dollars, for each and every offense; and, if a night scavenger, he shall be subject, in case of any subsequent offense, to forfeit his license, at the option of the City Inspector. (*Same*, § 15.)

§ 16. No person shall remove, or cause to be removed, the contents, or any part thereof, of any tub, box, cask, sink or privy, south of Forty-second street, without a written or printed permission from the City Inspector, which permission shall specify the time within which the said contents may be removed, and the piers to which the same may be taken and deposited, as mentioned in these ordinances, either of which piers the scavenger may elect;

Contents of
sinks, pri-
vies, &c., not
to be remo-
ved without
permission.

and if any person shall remove, or cause, or allow, or assist in removing the contents, or any part thereof, of any tub, box, cask, sink or privy, without such permission, or at any other time than that specified therein, or shall convey to and deposit, or assist in conveying and depositing, any of the contents aforesaid, from any other pier than one of those described in this chapter, he shall forfeit and pay for each and every offense, the sum of fifty dollars. (*Same*, § 16.)

Penalty.

Annual examination of sinks and privies to be made by City Inspector or Health Warden.

§ 17. It shall be the duty of the City Inspector or Health Warden, to examine each sink or privy in each ward or district, once in each year, and a report shall be made to the City Inspector, on or before the first day of April in each year, of the situation of each sink or privy in each ward or district; and when any sink or privy requires emptying before the tenth of September next thereafter, notice shall be given to the owner of such sink or privy, or his agent—if they cannot be found, the tenants thereof—requiring the removal of the contents of such sink or privy, to be performed forthwith; but the omission of such notice shall not excuse the person whose duty it is to cause such sink to be emptied, from the payment of the sum of ten dollars, as hereinbefore specified. (*Same*, § 17.)

Notice to be given to owner, agent or tenants, requiring sink or privy to be emptied, when necessary, forthwith.

Contract for five years to be made for the removal of night-soil, &c., from the city by means of vessels.

§ 18. The City Inspector is directed to advertise, and sell to the highest bidder, in conformity with law, the right, for five years, to all the night-soil taken from the sinks in the city; and the same shall be deposited by the scavengers in boats to be furnished by the person receiving the right; the boats to be used to be tight-deck boats, of no less than fifty tons, custom-house measurement; the person who shall receive the right, shall be bound to enter into a contract with the City Inspector for the

faithful performance of his contract for five years, and give security to the amount of one thousand dollars.

The person or persons who shall have the contract awarded to him or them, shall have the right of the exclusive use of two berths at each of the following-named piers, to wit: The pier foot of Clarkson street; the south side of pier foot of Twenty-sixth street, North River; the south side of pier foot of Thirty-eighth street, East River; also the north side of pier foot of Rivington street; and that the scavengers be compelled, under a penalty of twenty-five dollars, to proceed directly from the place where such soil shall be gathered, to the river, or to a street leading directly to the nearest dumping place, and dump all the night-soil taken from the privies or sinks into the boats of such person or persons who shall receive the contract from the city; and return the contract to the Common Council for confirmation (*a*). (*Same*, § 18.)

(*a*) Substituted for the foregoing (§ 18), see Resolution and Specifications for the making of a contract for the term of five years, for the removal of night-soil and contents of privies from the City of New York. Said Resolution and Specifications having been approved by the Mayor, September 26, 1859, are embraced in the Supplementary Ordinances at the latter part of this compilation.

CHAPTER VI.

OF THE STREETS ; TO MAINTAIN CLEANLINESS, AND
THE PROPER CONDITION THEREOF.

ART. I. OF THE PROHIBITION OF DIRT, ASHES, GARBAGE, OFFAL, RUBBISH, ETC., BEING THROWN, CAST, OR LAID IN THE STREETS OR PUBLIC PLACES.

II. OF THE REGULATION OF DIRT CARTS (FORBIDDEN TO SCATTER, DUMP, OR DEPOSIT MANURE, SAND, EARTH, ETC., IN THE STREETS) ; ALSO IN RELATION TO THE DEPOSIT OF MANURE FOR PURPOSE OF SALE ; ALSO PROHIBITION OF DUMPING MANURE, DIRT, ETC., ON THE BATTERY ; ALSO STREETS REQUIRED TO BE PAVED AND GUTTERED.

III. OF PROHIBITION OF KITCHEN AND WASTE WATER ALLOWED TO FLOW IN THE STREET ; ALSO PROHIBITING CREATION OF NUISANCE FROM FLOW OF STINKING, OFFENSIVE, OR IMPURE WATER OR FLUIDS.

ARTICLE I.

- SEC. 1. Offal, garbage, etc., shall not be cast or laid in any street ; penalty.
2. Dirt, ashes, etc., shall not be cast or laid in any street, with exception.
3. Ashes, offal, garbage, dross, straw, shavings, etc., shall not be thrown, cast, or laid in any street or public place.
4. Penalty for violation of preceding section.
5. Duty of proprietor or possessor of any foundry, forge, oyster stand, etc., to remove ashes, oyster shells, &c., at their own expense.
6. Owners and builders of buildings being erected or repaired, shall remove building rubbish, stone, sand, etc., each day, before sunset.

7. If not removed, as provided in last section, may be removed by order of the Superintendent of Sanitary Inspection or Health Warden.
8. Penalty, and double the usual charges to be paid for causing such removal.
9. Lime, ashes, dirt, or sand shall not be sifted, nor carpets, mats, etc., shaken in any street.
10. Ashes shall not be unloaded or dumped in the street or on the sidewalk from any cart or other vehicle.
11. Cinders or coal ashes forbidden to be laid in any street, lane, or alley; requirement to deliver the same to the ash carts.
12. Ashes or cinders to be kept in tin or other metallic vessels.
13. Owner of buildings or tenements below Fortieth street, to provide a barrel, tub, or box to contain rubbish, coal ashes, and garbage, to be placed on sidewalk.

§ 1. No offals, vegetables, or garbage shall, at any time, be cast or laid in any street, lane, or alley in the city of New York, but shall be delivered to the bell carts, under the penalty of one dollar for each offense, to be paid by the occupant of the house from which the same shall be cast, and the persons casting the same, severally and respectively. Offal, garbage, &c., shall not be thrown in the street, but shall be delivered to the bell cart. Penalty.

(Ordinance passed May 9, 1839.)

§ 2. No dirt, ashes, filth, or rubbish of any kind whatever shall at any time be cast or laid in any street, lane, or alley of this city, or in any public square, or public place therein, except on the days of sweeping, and before ten o'clock in the morning of those days, under the penalty of five dollars for each offense, to be paid by the occupant of the house or building from which the same was cast, and the person casting the same, severally and respectively. Dirt, ashes, &c., shall not be cast in any street. Exception. Penalty.

(Same, § 2.)

§ 3. No person or persons shall throw, cast, or lay any ashes, offal, vegetables, garbage, dross, cinders, shells, straw, shavings, dirt, filth, or rubbish of any kind whatever, in Ashes, offal, &c., prohibited being cast into any street or public place.

any street, lane, alley, or public place, in the city of New York. (*R. O.* 1859, *Ch. XLV.*, § 15.) (*a*)

Violation of
foregoing
section de-
clared to be
a misdemea-
nor.
Penalty.

§ 4. The violation of any of the provisions of the preceding section shall be, and is hereby, declared to be a misdemeanor, and shall be punishable by a fine of not less than one dollar, or more than ten dollars, or by imprisonment in the city prison, for a term not less than one, nor more than five days. (*Same*, § 16.)

Ashes, rub-
bish, &c.,
from found-
ries, forges,
and other
places, to be
removed by
the proprie-
tors, at their
own expense.

§ 5. It is hereby declared to be the duty of the proprietor or possessor of any foundries, forges, blacksmiths' shops, oyster stands and other places for the sale of oysters or other shell-fish, to employ carts, at their own expense, for the purpose of removing the several articles enumerated in the 15th section of this chapter, which may accumulate in their respective premises. (*Same*, § 18.)

Building
rubbish and
dirt to be re-
moved from
the street be-
fore sunset
of each day.

§ 6. The owner or builder of any house or other building which may be erecting or repairing, in the city of New York, shall cause all the rubbish, of every kind, occasioned thereby, which may accumulate in the street, or be cast into the street, and all the ground, stone, sand, and clay, which may be dug from the cellar or yard, or area, or vault, and cast into the street, to be removed out of the said street, before sunset on each day, under the penalty of five dollars for each day's neglect, to be recovered from the owner and builder, severally and respectively. (*Same*, § 19.)

Penalty for
neglect.

If not re-
moved, as
provided in
last section,
may be re-
moved by
order of Su-
perintendent
of Sanitary
Inspection or
Health War-
den.

§ 7. If any rubbish, ground, stone, sand, clay, shavings, or other substance, shall be cast into the street, and shall not be removed, as required by the last section, it shall be lawful for the Superintendent of Sanitary Inspection [and

(*a*) §§ 15, 16. An Ordinance passed May 2, 1849, in pursuance of an Act of Legislature, passed April 2, 1849, *ante*, Appendix of Laws.

Street Cleaning], and the Health Warden in whose round the same may be, to cause the same to be removed. (*Same*, § 20.)

§ 8. In addition to the penalty imposed by the 19th section, the person who has so incurred the same shall also pay to the said Superintendent of Sanitary Inspection [and Street Cleaning], and the Health Warden in whose round the said rubbish or other substance may have been, for removing the same, double the usual and ordinary sum for the removal thereof, to be recovered in the name of the Mayor, Aldermen, and Commonalty of the city of New York, with costs of suit, by the Attorney of the Corporation, in any court having cognizance thereof. (*Same*, § 21.)

Double the expense of removal shall be recovered in addition to penalty above prescribed for neglect.

§ 9. No person shall sift or screen any lime, ashes, dirt, or sand, or shake any carpet, cloth, or mat, in any street in the city of New York, or shall employ, or suffer, or permit any person so to do, under the penalty of five dollars for every such offense. (*Same*, § 22.)

Lime, ashes, dirt, or sand, not to be sifted, nor carpets, mats, etc., shaken, in any street. Penalty.

§ 10. No collector of ashes, or other person, shall unload from any cart, wagon, or other vehicle, in any of the streets of the city of New York, any ashes, by dumping or starting the same, in the street or on the sidewalk, under the penalty of ten dollars for each offense. (*Same*, § 23.)

Ashes not to be dumped in the street from any cart or vehicle. Penalty.

§ 11. No cinders or coal ashes, of any description, shall be laid or cast into any street, lane, or alley in this city; but shall be delivered to the ash carts provided for the purpose of receiving the same, under the penalty of three dollars for each offense, to be paid by the occupant or occupants of the house or premises from which the same shall be cast, or the persons casting the same, severally and respectively. (*Same*, § 24.)

Ashes and cinders not to be cast into any street, but must be delivered to the ash carts. Penalty.

Ashes, &c.
must be kept
in metallic
vessels.

Penalty.

§ 12. All ashes or cinders shall be kept, for the purpose of delivering the same to the ash carts, in vessels of tin, iron, or other metal, under the penalty of one dollar for each offense. (*Same*, § 25.)

Ash and
garbage
boxes to be
furnished.

Penalty.

§ 13. The owner or owners, of any buildings or tenements in the city, below Fortieth street, are hereby required to provide a barrel, or tub, or box, of sufficient size to contain all the rubbish, coal ashes, and garbage that may accumulate from day to day, on his or her premises, which said barrel, tub, or box, shall be placed on the sidewalk, in front of each house, or tenement, or such convenient spot as shall be designated by the Street Inspectors of the several wards; and it shall be the duty of the owners or occupants of all houses, tenements, &c., to put all their rubbish, coal ashes, and garbage, into said barrels, tubs, or boxes, when so provided; and in case of negligence they shall be liable to a fine of one dollar for each offense. (*Same*, § 56.) (*a*)

ARTICLE II.

SEC. 14. Loading cart with manure, sand, earth, etc., so that the contents shall be scattered in the streets prohibited; penalty.

15. Dirt, rubbish, etc. (except for building purposes) shall not be deposited in the street without permission of the Common Council, under liability to be punished for misdemeanor.

(*a*) By Section 17 of Ch. XLV. of R. O. 1859, it is made the duty of the Superintendent of Sanitary Inspection, the Health Wardens, and Policemen, to enforce the observance of said chapter; from which the foregoing sections, it will be seen, are almost wholly quoted.

16. No cartman, or other person, to remove from, or to dump or leave any dirt, sand, gravel, etc., in any street, without being duly authorized, or by permission from competent officer or person.
17. Penalty as to offenders.
18. Turf, stone, sand, or clay, not to be removed from any street or public place, without permission of the Common Council.
19. Regulation of carts used for conveyance of dirt, manure, sand, gravel, ashes, garbage, swill, etc. ; when required to be covered.
20. Violation (of Ch. XXXVII. R. O. 1859) deemed a misdemeanor ; punishable by fine.
21. Carts carrying manure to have close boxes ; size of box.
22. Penalty.
23. Superintendent of Sanitary Inspection may employ inspectors of manure ; their compensation.
24. Manure, etc. (except removed by order of Superintendent of Sanitary Inspection) not to be taken at certain times, to any wharf south of Fourteenth street.
25. No place for deposit and sale of manure to be kept south of 28th street, except as provided in said section.
26. The deposit or dumping of manure, etc., on the Battery, prohibited.
27. Enforcement of preceding section.
28. Corporation Attorney authorized to prosecute for penalty.
29. Streets to be paved and have side gutters.
30. Sand, dirt and rubbish to be removed after paving ; no contract for paving to be accepted as completed without certificate of compliance with this section.
31. Penalty for neglect or refusal to comply with preceding section, in addition to expense of such removal by the Water Purveyor.

§ 14. Any contractors, or other person or persons, causing any cart to be loaded and heaped up with manure, sand, earth, mud, clay or rubbish, so that the contents, or any part thereof, shall be scattered in any street, avenue, lane, pier, or bulkhead, in this city, shall forfeit and pay the sum of five dollars for each offense. (*R. O. 1859, Ch. XIV., § 7.*)

Carts not to be loaded so as to scatter manure, earth, sand, &c., in any street.

Penalty.

§ 15. No person, without permission of the Common

Earth, rubbish, &c., not

to be dumped in any street or other public place, without permission.

Offense a misdemeanor, in accordance with act of the Legislature.

Council, shall dump or deposit any earth, dirt, rubbish, or other article (except for the purposes of building), in any street, either upon the cartway or sidewalks, or any public place, under the penalty of ten dollars for every offense, and if the same shall be dumped or deposited by a dirt cart, the owner or driver thereof shall also be liable to be punished for misdemeanor, pursuant to the provisions of the act of the Legislature, entitled "An Act relative to the powers of the Common Council of the City of New York, and the Police and Criminal Courts of the said city," passed January 23d, 1833. (*R. O.* 1859, *Ch. XXIV.*, § 42.)*

Dirt, sand, gravel, &c., not to be removed from, nor deposited in, street or other place, without authority or permission.

§ 16. It shall not be lawful for the owner or driver of any dirt cart, or any other vehicle, or for any other person, to use or employ, or permit to be used or employed, any such dirt cart, or any other vehicle, for the conveyance or removal of any dirt, sand, gravel, stones or other thing, from any of the streets, or avenues, or highways, or from any lot of land, or other place, or to dump, deposit, or leave any dirt, sand, gravel, rubbish, or other thing, in any of the streets or highways, or on any dock or wharf, or on any lot or lots of land, within said city, without being duly authorized or permitted so to do by the public officer or other person competent to give such authority or permission. (*R. O.* 1859, *Ch. XXXVII, Art. II.*, § 35.)

Penalty. § 17. All persons offending against the provisions of the last section, shall forfeit and pay twenty-five dollars for each offense. (*Same*, § 36.)

No person shall, without permission, carry away any sand, &c., from any street or public place.

§ 18. No person, without permission of the Common Council, shall take up, remove, or carry away, or cause or permit to be taken up, removed or carried away, any turf,

* See Laws of 1833, under the head of Appendix.

stone, sand, clay or earth, from any street, public place, or highway in the city of New York, under the penalty of twenty-five dollars for each offense. (*R. O. 1859, Ch. XXIV., § 39.*)

§ 19. Every cart or other vehicle used to convey or transport dirt, manure, sand, gravel, mud, ashes, lime, garbage, swill, offal, or other loose materials, in any of the streets of said city, shall be fitted with a good and substantial tight box thereon, the sides of which shall be twenty-four inches, and the tail-board eighteen inches high, so that no portion of such dirt, sand, or other loose material, [shall] be scattered or thrown into any of said streets; and all carts, or other vehicles, when used in carting slacked lime, garbage, offal, swill, or other offensive matter, or ashes, shall have the box thereof closely covered with a sufficient covering of cloth, or boards closely fitted, so as to prevent the escape or flying about of any of the contents, or effluvia therefrom; and every person using any cart, or other vehicle, for any such purpose, without its being so fitted, shall be deemed guilty of a violation of this chapter. (*R. O. 1859, Ch. XXXVII., Art. IV., § 49.*)

Regulation
of dirt, garb-
age, and
swill carts.

Size.

Contents
shall not be
scattered.

Lime, gar-
bage, and
other carts
to be cover-
ed, to pre-
vent nu-
isance.

§ 20. All persons, who shall violate or fail to comply with any of the provisions of this chapter, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished, pursuant to the provisions of sections 20 and 21 of an act relative to the powers of the Common Council of the city of New York, and the Criminal Courts of said city, passed by the Legislature of the State of New York, January 23d, 1833; or in lieu thereof, shall forfeit and pay, for the use of said city, ten dollars for each and every offense, except where a penalty is prescribed in said chapter. (*Same, § 48.*)*

Violation
of the fore-
going declar-
ed to be a
misdemean-
or, pursuant
to act of the
Legislature.

Penalty.

* See Appendix.

Manure shall be carted in tight boxes, &c.

§ 21. All manure shall be carted in close boxes, the front and sides of which shall be at least twenty inches in height, and the tail-board at least fifteen inches in height, and the said boxes shall be well secured, so as to prevent any part of the load from running out. (*R. O.*, 1859, *Ch. XXIII.*, *Art. III.*, § 22.)

Penalty.

§ 22. Every person who shall neglect or violate any of the provisions of this law, shall forfeit and pay for every such offense the sum of five dollars, to be recovered in the name of the Mayor, Aldermen, and Commonalty of the city of New York, in any court having cognizance thereof. (*Same*, § 23.)

Superintendent of Sanitary Inspection may employ inspectors of manure. Compensation.

§ 23. The Superintendent of Sanitary Inspection [and Street Cleaning] may, whenever he deems the same necessary, employ, not exceeding six persons, to act as inspectors of manure, under his direction, who shall receive at the rate of one dollar and fifty cents per day for every day they may be so employed. (*Same*, § 24.) (*a*)

Manure, &c. not to be removed to any wharf south of 14th street during certain months.

Penalty.

§ 24. No manure, filth, or sweepings, other than that removed by authority of the Superintendent of Sanitary Inspection, [and Street Cleaning] shall, at any time between the first day of April and the last day of November, be carted or transported to any wharf to the southward of Fourteenth street, in the city of New York, under the penalty of ten dollars for each offense. (*R. O.* 1859, *Ch. XXIII.*, *Art. III.*, § 27.)

No place for the sale of manure shall be kept south of 28th street, except by written permit. Penalty.

§ 25. No deposit of manure for sale, shall be kept at any place in the city of New York, south of Twenty-eighth street, except as hereinafter mentioned, under the penalty of twenty-five dollars, to be paid by the owner or owners

(*a*) Section 25 forbids all persons, other than those employed by the Corporation for that purpose, to remove any manure from the streets or other public places.

thereof, or the occupant of the lot or lots, or other place in which such manure shall be kept, severally and respectively. But it shall and may be lawful for the Aldermen and Councilmen of the several districts to permit, in writing, under their hands, the depositing of manure in any lot or other place in said district, south of Twenty-eighth street, with the written consent of the owner of the ground, between the first day of November and the first day of March in each year, under such regulations, and during such time as they may deem proper, and subject to be removed at any time whatever, on the order of said Aldermen and Councilmen. (*Same*, § 28.)

By whom
and when
permit may
be granted.

§ 26. No person shall deposit, or cart manure of any kind, dirt, filth, sweepings of streets or rubbish, upon that portion of the city known as the Battery, or upon the Battery enlargement, under the penalty of twenty-five dollars for each offense, to be recovered from the owner of any boat, cart or other vehicle, or the person having charge of the same, severally and respectively. (*R. O.* 1859, *Ch.* XXV., § 7.)

Prohibition
of dumping
manure, dirt,
&c., on the
Battery.

Penalty.

§ 27. The Mayor of the city is hereby authorized to enforce the provisions of the last section, until a sea-wall is built around the Battery enlargement. (*Same*, § 8.)

Enforce-
ment.

§ 28. The Corporation Attorney is hereby authorized and directed to prosecute for the penalty, all complaints for any violation of section 7 of this chapter. (*Same*, § 9.)

Recovery
of penalty.

§ 29. All streets in the city of New York, of twenty-two feet in width and upwards, shall be laid or paved in the middle, which part shall remain as a cartway, and shall have a gutter or kennel on each side next adjoining the footpath, and shall be paved with sufficient paving stone, and arched in such a manner as the Croton Aqueduct Board shall direct. (*R. O.* 1859, *Ch.* XIV., § 1.)

Streets
shall be pay-
ed and have
side gutters

Sand, dirt,
and rubbish
to be remov-
ed after pav-
ing streets.

§ 30. Any and all persons, other than the Water Purveyor, who may hereafter pave or cause to be paved, any street, lane or other thoroughfare, or portion thereof, in this city, shall have the sand, dirt and rubbish cleaned off said street, lane or thoroughfare, or any part thereof, within twelve days after any such pavement shall be completed, except such pavement as shall be laid over pipes, which shall be cleared off within six days after the same shall be laid; this section shall be so construed as to apply to the removal of all sand, dirt or rubbish collected in any part of any and all streets, lanes and thoroughfares covered by any pavement so done or laid, or excavation that may have been made, or other work done in pursuance thereof; and no contract for paving in pursuance of this section, shall be accepted as completed, unless the Water Purveyor shall certify that this section has been fully complied with. (*Same*, § 5.)

Penalty for
neglect to
comply with
last section.

§ 31. Any person or persons, excepting the Water Purveyor, neglecting or refusing to remove the dirt, sand or rubbish, mentioned in section five of this chapter, within the time specified therein, shall forfeit and pay the sum of twenty-five dollars for each offense; and in addition thereto, the Water Purveyor shall cause the same to be removed at the expense of the party so neglecting or refusing, who shall be liable to repay and refund the same, and which shall be collected and paid into the city treasury. (*Same*, § 6.)

ARTICLE III.

- SEC. 32. Swill, or other vegetable fluid not to be permitted to be conveyed, or deposited into any street, sewer, or drain.
33. Kitchen and waste water to pass across sidewalks through covered gutters; such gutters to be kept free from obstruction.
34. Stinking, noxious, impure, offensive, or noisome water prohibited from being cast or allowed to run into the street.
35. Water from breweries, distilleries, and manufactories, not to run in any street, except during hours specified.
36. Preceding section not to apply to water from steam engines.
37. Sidewalks not to be overflowed.
38. Washing or scouring of clothes, &c., in the streets, prohibited under penalty.
39. Clothes, &c., not to be dried in any street under penalty.
40. Sidewalks and gutters to be kept in good repair.
41. Power of the Street Commissioner in relation thereto.

§ 32. No person shall convey, or deposit, or cause or permit to be conveyed or deposited, into any street, sewer, or drain, in the city of New York, any swill, or other vegetable fluid, liquid or substance, under the penalty of fifty dollars for each offense. (*R. O.* 1859, *Ch. XLV.*, § 32.)

Swill, &c., shall not be deposited or conveyed into any street, sewer, or drain.
Penalty.

§ 33. It shall be the duty of every person, from whose kitchen or lot any water may pass into any street, across the sidewalk, to cause the same to pass through a covered gutter under such sidewalk, and to keep such gutter at all times clear of ice and every other obstruction, so that the water shall pass freely through the same, without overflowing, or running upon the surface of the sidewalk, under the penalty of ten dollars for every day that such duty may be neglected. (*Ch. XLV.*, § 27.)

Waste water to pass across sidewalk thro' covered gutter.

Penalty.

§ 34. No person shall cast or throw, or suffer to run into any street, lane or alley in the city of New York, from his, her,

Stinking or impure water not to be cast

or run into any street, &c.
 Penalty. or their house, houses or premises, any stinking, noxious, (a) impure, offensive or noisome water, or any substance or thing, in a liquid or flowing state, under the penalty of twenty-five dollars for each offense. (*Same*, § 28.) (b)

Water from breweries, distilleries, &c., not to flow into the street, except at certain hours.
 § 35. No brewer, distiller, dyer, soap maker, or other person, shall cast, or throw, or suffer the water to run from his manufactory, shop, house or establishment, into any street, except between the hours of eight in the morning and five o'clock in the afternoon, from the first day of December, until the first day of April, in any year, under the penalty of twenty-five dollars for each offense. (*Same*, § 29.)

Exception as to water from steam engines.
 § 36. The last preceding section shall not be construed to prevent the casting of water from any steam engine, at any time during the year, in the city of New York. (*Same*, § 30.)

Sidewalk shall not be overflowed by water.
 § 37. Whenever any water shall be cast or thrown, as provided in the twenty-ninth section of this chapter, the person or persons so casting, or suffering the same to run from their premises, shall clear a passage for the same along the gutter, to the river or public sewer, so that the same shall not overflow the curb-stone or sidewalk, under the penalty of twenty-five dollars for each neglect. (*Same*, § 31.)

Clothes, &c. shall not be washed or scoured in any street.
 Penalty. § 38. No dyer or scourer, or any other person, shall wash, rinse or cleanse, or cause or procure to be washed, rinsed or cleansed, any cloth, yarn or garment, in any street in the city of New York, under the penalty of ten dollars for each offense. (*Same*, § 52.)

Clothes, &c. shall not be dried in any street, etc.
 § 39. No dyer or scourer, or any other person, shall place or suspend, or cause or procure to be placed or sus-

(a) See Addenda.

(b) From Ordinance "Of Streets and Roads," passed May 9, 1839.

pended, in or over any street in the city of New York, any cloth, yarn or garment, for the purpose of drying the same, under the penalty of ten dollars for each offense. Penalty.
(Same, § 53.)

§ 40. The owner or owners, lessee or lessees, occupant or occupants of any house or other building, or vacant lot, fronting on any street or avenue, shall, at his, her, or their charge and expense, well and sufficiently pave, according to the ordinances, and keep and maintain in good repair, the sidewalks and curb and gutter of such street or avenue, in front of any such house or other building or vacant lot. Sidewalks and gutters to be kept in good repair
(R. O. 1859, Ch. XV., § 14.)

§ 41. Upon complaint being made to the Street Commissioner, to his satisfaction, that any sidewalk and curb and gutter, or either, are not paved or repaired according to the ordinances, it shall be lawful for the said Commissioner to cause a notice to be served upon the owner or owners, lessee or lessees, occupant or occupants, of any such house or other building, or vacant lot of ground fronting on any street or avenue, to repair or relay, as the case may require, the sidewalk and curb and gutter, or either, in front of the same, within ten days after the service of such notice. Upon complaint of omission, the Street Commissioner may cause repairs to be made.
(Same, § 15.) (a)

(a) The R. O. 1859 further provides (Ch. XIV., § 16) in case of default, that the Street Commissioner order the same to be done, (§ 17) the expense thereof be paid out of the appropriation for sidewalks; the Street Commissioner (§ 18) to report the same to the Corporation Attorney, who shall recover the amount so paid, with ten dollars as a penalty, and (§ 19) upon return of the account of moneys so recovered, the Comptroller to credit the fund appropriated as aforesaid. These provisions of the ordinances are here included because persons frequently complain of nuisance arising from the collection of stagnant and filthy pools at places where the pavement may be broken, or the gutter stone sunken, &c.

CHAPTER VII.

OF THE CLEANING OF STREETS, &c., BY CONTRACT,^(a)
AND OF THE REMOVAL OF SNOW, ICE, &c.

ART. I. OF THE CLEANING OF STREETS BY CONTRACT.

II. OF THE REMOVAL OF SNOW AND ICE.

ARTICLE I.

- Sec. 1. The city, with the exception of Twelfth Ward, constituted one contract district.
2. Contractor to cause all streets, avenues, &c., to be cleaned and swept once in each week; dirt, manure, &c., to be immediately removed.
3. Contractor to cause all dirt, filth, &c., to be removed from the public markets every Sunday, before 9 o'clock, A. M., and every other day (Saturday excepted) before 4 o'clock, P. M.
4. Contractor to cause to be removed from the streets, all ashes, garbage, &c., between the hours of 7 A. M., and 6 P. M., daily (Sunday excepted).
5. Ash cartmen to have a bell, to give notice of approach.
6. Broadway and other principal streets; how often to be swept.
7. The streets in the 1st, 2d, 3d, 4th, 5th and 6th Wards, also Third and Sixth avenues to Fourteenth street, to be swept once a week: streets below Chamber street to be cleaned during the night time; exception, when weather prevents work.
8. Contractor to remove snow, ice, &c., from crosswalks, gutters, and from in front of public buildings and places, within twenty-four hours; streets to be kept passable for vehicles during the winter, &c.

(a) See Appendix, for Act of Legislature 1860.

9. Contractor required to remove dirt, manure, &c., from the city as collected; berths to be designated by the Common Council for vessels engaged in said removal; contractor to protect same against infringement.
10. Of the failure by contractor to perform his duty, after notice; penalty; failure for one week to perform his contract, to be investigated by the Common Council; contract may be annulled or specifically enforced; duty of the City Inspector, after annulment, to advertise for proposals for execution of said work; liability of contractor and his sureties to the city.
11. Contractor to remove, without expense to the city, all dirt, filth, &c., taken from basins and sewers by the Croton Aqueduct Department.
12. Use of Croton water allowed to contractor, under restrictions and liability for damage.
13. Contractor to give security to the amount of \$200,000, to be approved by the Comptroller; Comptroller to retain 10 per cent. of payments till the end of each year.
14. The City Inspector directed to advertise for proposals to contract, for five years, for work of cleaning streets; Common Council to confirm said award.

ARTICLE I.

Of the Cleaning of Streets by Contract.

§ 1. The city, with the exception of the Twelfth Ward, shall constitute one contract district. (*R. O.* 1859, *Ch. XXIII., Art. I., § 1.*)

§ 2. The contractor shall cause the surface of all streets, avenues, lanes and alleys, and all gutters, wharves, piers, heads of slips, public lands and places, and the limits of the public markets, to be thoroughly cleaned and swept once each and every week; and all dirt, manure, ashes, garbage and rubbish, so swept up, to be removed immediately therefrom. (*Same, § 2.*)

Contract District.

Contractor to cause all streets, avenues, &c., to be cleaned and swept once in each week.

Contractor to remove all dirt, filth, &c., from the Markets, every Sunday, before nine o'clock, and other days, before four o'clock, P. M.

§ 3. The said contractor shall cause all dirt, filth and rubbish, of all and every kind, to be removed from each of the public markets, and such other public markets as shall hereafter be erected, and the limits thereof within their respective districts, every Sunday, before the hour of nine o'clock in the morning, and every other day excepting Saturday, before four o'clock in the afternoon. (*Same*, § 3.)

Contractor to cause removal of ashes, garbage, &c., every day, except Sunday.

§ 4. The said contractor shall cause to be removed from the streets, in tight carts, all ashes, garbage, rubbish, and sweepings of every kind, which may be delivered to them, or that may be placed in vessels upon the sidewalks, or in the front area of, or upon the upper area step of, any dwelling house, store or public building, between the hours of seven A. M., and six P. M., of each and every day, Sundays excepted. (*Same*, § 4.)

Ash-cartmen to have bell to give notice of their approach.

§ 5. The drivers of all carts employed as ash carts, shall have a bell attached to their carts or harness, that notice of their approach may be had; and shall receive all ashes, garbage, sweepings and rubbish, which shall be delivered them, or that may be placed upon the sidewalk in vessels, or in the area, or upon the upper cellar step of every dwelling house, store, or public building. (*Same*, § 5.)

Broadway, Park Row, Chatham street, Bowery, Fulton street, Cortlandt street, Wall street, Maiden Lane, Whitehall street, Grand street, how often to be swept.

§ 6. Broadway, from the Battery to Fourteenth street, shall be swept, during the night and before the hour of 7 A. M., once every twenty-four hours; Park row and Chatham street, Bowery to Grand street, Fulton street, east from Broadway; Cortlandt street, Wall street, Maiden Lane, Whitehall street, and Grand street, east from Broadway, shall be swept seven times in each month. (*Same*, § 6.)

Streets in six lower Wards, and 3d and 6th avenues, to Fourteenth

§ 7. All streets, lanes and alleys, embraced in the First, Second, Third, Fourth, Fifth and Sixth Wards, together with Canal street, West Broadway, Third and Sixth

avenues, to Fourteenth street, shall be swept in like manner, once per week, and all the dirt, manure, ashes, garbage, and rubbish of every kind, so swept up, shall be removed immediately therefrom. All streets below Chambers street shall be cleaned during the night, and before the hour of seven A. M., between the first day of May and the first day of October; and during the night, and before the hour of nine o'clock A. M., between the first day of October and the first day of May, in each year. When the performance of such work is impracticable, from the state of the weather, the City Inspector may, from time to time, in writing, designate a later hour for the work, or dispense with the same temporarily; but said officer shall not grant such dispensation for a period longer than one week from the date thereof. (*Same*, § 7.)

street, to be swept once a week.

Streets below Chambers street, to be cleaned at night.

Exception when weather prevents work.

§ 8. The said contractor shall remove snow, ice, and other obstructions from the crosswalk and gutters, and shall also remove snow, hail and ice from the front of all public buildings and places, engine houses, station houses, and court rooms, within twenty-four hours after such snow or hail has ceased to fall, and shall keep the streets conveniently passable for vehicles, during the winter, and clean all gutters intersecting the same. (*Same*, § 8.)

Snow, ice, &c., to be removed from crosswalks and gutters, and from in front of public buildings and places, by the contractor.

Streets to be kept passable for vehicles.

§ 9. The said contractor shall remove from the city, all dirt, manure, garbage, ashes, and rubbish of every kind, as fast as the same can be collected, and no deposit of any kind shall be made in the city, except such as may be suitable to fill up low ground, or sunken lots, and that may be required for such purpose, with the consent of the owner of such ground or lots, and of the City Inspector. The city will furnish to the contractor the right to use the berths designated by the Common Council, for the loading of ves-

Contractor to remove dirt, manure, &c., from the city as collected.

Berths to be designated for vessels engaged in removal.

sels, but the contractor must protect the right thereto from unlawful infringement. (*Same*, § 9.)

Failure of contractor to perform his duty after notice.

Penalty.

Failure for one week to perform his contract, to be investigated by the Common Council.

Contract may be annulled or specifically enforced.

§ 10. If the contractor shall fail to perform any duty required by these specifications, for the space of twenty-four hours after he shall have been notified thereof, by notice in writing, left at his residence or place of business, by the City Inspector, he shall be subject to a fine of five dollars for each and every street so reported; and should said contractor fail to perform his contract, according to the written specifications, for a further space of twenty-four hours, in regard to the street or streets so reported, he shall be subject to a further fine of twenty-five dollars; said fine to be deducted from the reserve fund of ten per cent., hereinafter provided for; and if such fund is not sufficient, then such fine or fines shall be deducted from such moneys as may be due, or become due, said contractor from the city. Should the said contractor further fail of performing his contract, as aforesaid, for the space of one week, the City Inspector shall, forthwith, without any delay, communicate the facts in relation thereto to the Common Council, and the said Common Council shall, thereupon, proceed to investigate the alleged non-performance of said contract, by said contractor; and it shall be optional with said Common Council to annul said contract, or compel a specific performance thereof by said contractor, or his sureties. Should the said contract be annulled and declared forfeited, as aforesaid, the said contractor shall not be entitled to claim any moneys for any work performed under said contract, after a resolution, annulling said contract, shall have been approved by the Mayor, and written notice thereof given said contractor, in person, or left at his office, or place of business. After said contract shall have been annulled, as

aforesaid, it shall be the duty of the City Inspector, forthwith, to advertise for proposals for cleaning the streets uncontracted for, in compliance with the specifications herein, and to cause the work, under said forfeited contracts, to be done by other persons, pursuant to law, and the specifications herein; and all charges for such work, over and above the amount that the aforesaid contractor would have been entitled to for the same, together with such other expenses, losses, &c., that would have been incurred by the city, by reason of said forfeiture, shall be charged to said contractor; provided, however, that neither said contractor nor his sureties shall be liable for any expenditure or loss sustained by the city, by reason of said forfeiture or annulment of said contract, after the expiration of thirty days from the date of said annulment, and notice thereof, as aforesaid. Should the payment due, or becoming due, to the said contractor, be insufficient to reimburse the city for the expense incurred by reason of said annulment, the Comptroller shall then direct such action to be taken in law as may be necessary to recover from the sureties of said contractor any deficiency that may arise by reason thereof. (*Same*, § 10.)

Duty of City Inspector, after annulment, to advertise for proposals for said work.

Liability of contractor and his sureties for loss or expense to the city.

§ 11. The said contractor shall receive from the Croton Aqueduct Department, and carry away, all dirt, rubbish, and filth taken from the receiving basins and sewers, free from any charge or expense to the city, or said Croton Aqueduct Department. (*Same*, § 11.)

Contractor to remove all dirt, filth, &c., taken from sewers, by Croton Aqueduct Department.

§ 12. The contractor shall be allowed to use the Croton water from hydrants, for sprinkling streets in advance of the sweepers employed therein, but not more than one hydrant to be open at a time, and this only so far as to enable him, conveniently, to fill his watering-pots, and to

Use of Croton water allowed to contractor.

Restriction.

Liability. be carefully closed when left. The said contractors to pay for repairs, by the Croton Aqueduct Department, of hydrants damaged by the said contractors, or the men in their employ. (*Same*, § 12.)

Security to the amount of \$200,000 to be given by Contractor. To be approved by the Comptroller. 10 per cent. of payments to be retained to the end of each year.

§ 13. The contractor shall give good and sufficient security in an amount or amounts from not more than ten sureties, of two hundred thousand dollars, for the faithful performance of his contract; such security to be approved by the Comptroller; and the Comptroller shall draw his warrant, semi-monthly, for the proportionate amounts of the contract, after having deducted ten per cent. from each payment, except as hereinbefore otherwise provided, until the expiration of each year from the time of the award of his contract, upon a certificate of the City Inspector of the faithful performance of the work. If, at the expiration of each year, as aforesaid, the contracts have been faithfully performed on the part of the contractors, to the satisfaction of the City Inspector, and he shall certify thereto, then the Comptroller shall issue his warrant for the additional ten per cent., deducted from the aforementioned payment. (*Same*, § 13.)

City Inspector directed to advertise for proposals to contract for five years, for work of cleaning streets, &c. To be confirmed by the Common Council.

§ 14. The City Inspector is hereby authorized and directed to advertise for proposals, and to contract with the lowest bidder, pursuant to the provisions of the Charter, for cleaning the streets and avenues of the city, for a term of five years, in compliance with the specifications herewith accompanying, and that he transmit the said award of contract to the Common Council, for confirmation. (*Same*, § 14.)

ARTICLE II.

Of the removal of Snow and Ice.

- SEC. 15. Snow, ice, &c., to be cleaned from sidewalks and gutters; penalty.
16. When snow or ice cannot be removed, ashes or sand to be strewn on the sidewalks within four hours; penalty.
17. Duty of Superintendent of Sanitary Inspection to have crosswalks and gutters cleared from snow and ice, and kept free from obstruction.
18. Duty of the Superintendent of Sanitary Inspection to enforce the preceding sections.
19. Expense to be paid by owner, occupant, or person having charge of any such premises; may be sued for and recovered in the name of the Corporation.

§ 15. The owner, or occupant, or person having charge of each house or other building, or lot or lots of ground, in the city of New York, shall, within the first four hours after every fall of snow, or hail, or rain, which shall freeze on the sidewalks and in the gutters, cause the same to be removed entirely from off the sidewalks opposite such house, building, lot or land, under the penalty of three dollars for every such neglect, to be paid by the said owner, occupant, or person having charge, severally and respectively. (*R. O.* 1859, *Ch. XXIII., Art. II., § 15.*)

Sidewalks to be cleaned of snow, ice, &c.

Penalty.

§ 16. In case the ice or snow shall be so congealed that it cannot be removed without injury to the pavement, the owner, occupant, or person having charge of any building, lot or land as aforesaid, shall, within the first four hours after every fall thereof, cause the sidewalks opposite his, her, or their premises, to be strewn with ashes, or sand, under the penalty of one dollar, to be paid by the owner,

When snow or ice cannot be removed, ashes or sand to be strewn on sidewalks

Penalty.

or occupant, or person having charge thereof, severally and respectively. (*Same*, § 16.)

Duty of Superintendent of Sanitary Inspection to keep cross-walks and gutters free from obstruction by snow or ice.

§ 17. (a) It shall be the duty of the Superintendent of Sanitary Inspection [and Street Cleaning], immediately after every fall of snow, or hail, or rain, which shall freeze on the crosswalks, or in the gutters, forthwith to cause the same to be removed from the said crosswalks, and from out of the said gutters, to the breadth of one foot, in the several wards respectively; and the said crosswalks and gutters shall be kept clean and free from all obstructions. (*Same*, 17.) (b)

Duty of the Superintendent of Sanitary Inspection to enforce preceding sections.

§ 18. In case the owner, occupant, or person having charge of any house, lot, building, or land, shall neglect to comply with any of the provisions of the previous sections of this chapter, it shall be the duty of [the] Superintendent of Sanitary Inspection [and Street Cleaning] to cause the same to be done. (*Same*, § 19.)

Expense to be paid by owner, occupant, or person having charge of any such premises.

§ 19. In addition to the penalties imposed by the preceding sections of this chapter, said owner, occupant, or person having charge of any such premises, shall likewise pay to the Superintendent of Sanitary Inspection [and Street Cleaning] (c) for causing the snow to be removed, as provided in the last preceding section, the sum of

(a) Chap. XXVIII., Ord. 1845, required of the owners and occupants the execution of this work; but by Ordinance, passed February 7, 1852, the removal of snow, &c., from crosswalks and gutters was imposed upon the Street Inspectors.

(b) § 18 relates to the leveling of snow in the streets, for the passing of horses, sleighs, and carriages.

(c) The designation of this officer is here given as in the Revised Ordinances; it should be "Superintendent of Sanitary Inspection," according to the amended charter of 1857.

eighteen and three-quarter cents for every twenty-five feet in width, which shall have been cleaned by order of the said Superintendent, and so in proportion for any greater or less extent; which said amount the said Superintendent may sue for and recover, in any court having cognizance thereof, in the name of the Mayor, Aldermen, and Commonalty of the city of New York; the same being first demanded.

(*Same*, § 20.)

May be re-
covered in
the name of
the Mayor,
Aldermen,
and Com-
monalty.

CHAPTER VIII.

OF THE PROHIBITION OF STAGNANT WATER AND
OFFENSIVE SUBSTANCES.

ARTICLE I.

- SEC. 1. Made ground (or formerly covered with stagnant water) not to be turned up during certain months; penalty.
2. Prohibition against keeping noisome or unwholesome substances, &c.; penalty.
3. Farmers and other persons prohibited from keeping or bringing into city undressed hides, &c.; penalty.
4. Exception in relation to Beekman's Swamp.

Made ground (or formerly covered with stagnant water) not to be turned up during certain months.

Penalty.

§ 1. No made ground, or ground formerly covered with salt or stagnant water, within the city of New York, shall be turned up, or the surface thereof removed, at any time between the first day of June and the first day of October, in any year, unless by special permission of the Common Council, under the penalty of one hundred dollars for each offense. (*Chapter XLV.*, § 1.) (*a*)

Prohibition against keeping noisome or unwholesome substances, &c.

Penalty.

§ 2. No person shall have, make, use, or keep, in his or her premises, at any place in the city of New York, any noisome, offensive, or unwholesome substance, or any vat, pit, or pool of standing water, whether for tanners', skimmers', dyers', or other use, under the penalty of fifty dollars for each offense. (*Same*, § 2.)

(*a*) See Appendix of Acts of the Legislature.

§ 3. No tanner, skinner, or other person shall bring to, ^{Farmers and other persons prohibited from keeping or bringing into city undressed hides, &c.} or keep for the period of twenty-four hours, in any part of the city of New York, south of Fourteenth street, any undressed or uncurried hides, skins, or leather, or any blubber, or other materials whatever, for dressing the same, which may cause any noisome, (a) offensive, or unwholesome smell, under the penalty of fifty dollars for each offense. ^{Penalty.}
 (*Same*, § 3.)

§ 4. The preceding sections, two and three, of this chapter, shall not be construed to affect any vat, or vats, pit, or pits, in the place commonly called Beekman's swamp, in the city of New York, which were made and erected on or before the 29th day of March, in the year of our Lord one thousand eight hundred and six. ^{Exception in relation to Beekman's Swamp.} (*Same*, § 4.)

(a) See Addenda.

CHAPTER IX.

OF THE BUSINESS OF BONE-BOILING, BONE-BURNING, AND SIMILAR ESTABLISHMENTS.

- SEC. 1. The trade or business of bone-boiling, bone-burning, bone-grinding, horse-skinning, cow-skinning, or skinning of dead animals, or the boiling of offal, prohibited.
2. Penalty for violation of preceding section ; duty of magistrate to cause the arrest and detention of offenders.
 3. Duty of the City Inspector to give notice to discontinue trade or business (prohibited by § 38) ; and direct all offensive or unwholesome materials to be removed within forty-eight hours.
 4. Requirements in relation to form and manner of service of such notice.
 5. If such business be not discontinued and materials removed, after notice, the City Inspector to have authority and to enforce the discontinuance and removal.
 6. Statement of the expense to be prepared by the City Inspector, specifying the lots and owners, and proceeding taken to recover the same as provided by law.

The trade or business of bone-boiling, bone-burning, bone-grinding, horse-skinning, cow-skinning, or skinning of dead animals, or the boiling of offal, prohibited.

§ 1. It shall not be lawful for any person or persons, incorporated or unincorporated, to carry on, establish, prosecute or continue, within the city of New York, the occupation, or trade, or business of bone-boiling, bone-burning, bone-grinding, horse-skinning, cow-skinning, or skinning of dead animals, or the boiling of offal ; and any such establishment or establishments, or place of such business, existing within the limits aforesaid, shall be forthwith removed out of said city, and such trade, occupation, or business shall be forthwith abated and discontinued : provided, that nothing herein contained shall apply to the

slaughtering or dressing of animals for sale in said city. (*R. O.* 1859, *Ch. XLV*, § 38.) (*a*)

§ 2. Every person or corporation violating, refusing, or failing to comply with the provisions of the thirty-eighth section of this chapter shall, upon conviction thereof before any court of competent jurisdiction, be liable, for every such offense, to a penalty of five hundred dollars ; and every person or persons, engaged or employed in any such trade, or business, or occupation, prohibited by the said section of this chapter, or violating the provisions thereof, or refusing or failing to comply with the same, shall, in addition to said penalty, be considered guilty of a misdemeanor, and, on conviction, shall be subject to fine or imprisonment, or both, at the discretion of the court. And it is made the especial duty of all magistrates and police officers to cause the arrest and detention of all persons guilty of violating the provisions of this chapter of the ordinances. (*Same*, § 39.)

Penalty for violation of preceding section.

Duty of Magistrates and others to cause arrest of offenders.

§ 3. It shall be the duty of the City Inspector to ascertain whether any such trade or business is carried on, or continued, or established within the limits aforesaid, and to cause notice in writing to be served upon the person, persons, or corporation carrying on or continuing such trade or business, directing every such person, persons, or corporation to discontinue the said trade or business, and to cause all offensive or unwholesome materials, or things appertaining to said trade or business, to be removed without

Duty of the City Inspector to give notice to discontinue such trade or business and remove offensive or unwholesome materials within forty-eight hours.

(*a*) The first ordinance prohibiting bone-boiling, &c., was adopted by the Common Council and approved by the Mayor, September, 1850—the first and second sections, of the same being amended by ordinance, approved by the Mayor, October 16, 1850 ; no important alteration therein being made in the revision of 1859.

the limits aforesaid, within forty-eight hours after the service thereof. (*Same*, § 40.)

Form and manner of service of such notice.

§ 4. If the name of any such person shall be known to the said City Inspector, the same shall be inserted therein ; but if any such name be unknown to said City Inspector, it shall be sufficient, after diligent inquiry for the same, to direct such notice in the following manner : “ To the “ person, persons or incorporation concerned (*a*) in the carrying on or continuance of the business of (specifying the “ same), at (specifying the place of such business), and “ every of them,” without any other name or addition ; and such notice may be served by leaving the same with any person of suitable age and discretion, upon the premises where such trade or business is so carried on ; or if the same be closed, or no person be found upon the premises, upon whom the same can be served, then, by posting such notice in a conspicuous place upon such premises ; and, in case the person or persons to whom such notice is directed be known to the City Inspector, the said notice may be served by leaving the same at the place of residence of such person, with any person of suitable age and discretion. (*Same*, § 41.)

If such business be not discontinued, and materials removed, after notice, the City Inspector to have authority, and to enforce the discontinuance and removal.

§ 5. If such trade or business, so carried on and continued, shall not be discontinued by the time specified in such notice, and all offensive or unwholesome material and things appertaining thereto, removed from within the limits aforesaid, within the time aforesaid, it shall be the duty of the said City Inspector to cause the same to be done, and he shall have authority to do all things necessary in order to shut up and discontinue such trade or business peaceably, and to remove beyond the limits aforesaid all

(*a*) So in the original.

such offensive or unwholesome material or things. (*Same*, § 42.)

§ 6. It shall be the duty of the City Inspector to prepare a statement, showing the expenses incurred in the execution of the last preceding five sections, specifying the lot or lots whereon such trade or business has been so carried on or continued, and the name or names of the proprietor or proprietors, owner or owners of the same, so far as the same may be ascertained; and such statement shall be filed in the office of the Street Commissioner, and such proceedings shall thereupon be taken for the collection of the amount of the sum so expended in carrying the said section into execution, as are provided or allowed by law. (*Same*, § 43.)

Statement
of expense
to be prepared,
filed,
and proceedings
had to recover
the same.

CHAPTER X.

OF THE INTERMENT OR REMOVAL OF THE REMAINS
OF DECEASED PERSONS FROM THE CITY, AND OF
REGISTRATION OF DEATHS (*a*).

ART. I. OF THE BUREAU OF RECORDS AND STATISTICS.

II. OF THE PROHIBITION OF BURIALS IN THE CITY OF
NEW YORK; AND THE REMOVAL THEREFROM OF
THE REMAINS OF DECEASED PERSONS.

ARTICLE I.

SEC. 1. Of the Registrar of Records; duties.

§ 1. The chief officer of this bureau shall be called the "Registrar of Records," and is charged with the duty of keeping all returns of inquisitions taken by the coroners of the city and county of New York, which shall be made or returned as by law provided, and the records of births, marriages and deaths and such other records as may be by law or ordinance required to be kept in this department; the granting and recording of all burial permits, and permits for the disinterment of the remains of deceased persons,

(*a*) In relation to the duty of the City Inspector to keep registry of deceased persons, see act of Legislature passed April 18, 1847; amended by act passed April 2, 1853; also, see ante Chapter I., Art. XI., Sec. 18, 19 and 27, of this compilation.

and the preparation of all documents, or reports of said department, relating to said bureau; and the keeping of all such books, accounts or records; and perform such other duties as the City Inspector may, from time to time, direct; and he shall assist the City Inspector in the performance of the duties imposed upon that office, and for that purpose he shall possess, in relation to the duties of his bureau, all the powers which are now, or may hereafter be conferred by ordinance upon the City Inspector, relative thereto, and shall receive an annual salary of twelve hundred dollars. (*R. O. 1859, Ch. VII., Art. V., § 71.*)

ARTICLE II.

- Sec. 2. No grave to be opened, or dug, in any burial ground in the city, south of Eighty-sixth street, except in private vaults or cemeteries, existing at the time of the passage of this ordinance; penalty.
3. No new cemetery or burying ground to be opened in any part of the city and county of New York; penalty.
4. Interments in vault or grave, at any place south of Eighty-sixth street, required to be in a vault or grave, at least six feet deep; penalty.
5. Prohibition of removing, disturbing, or exposing any dead body or coffin, after interment, without previous permission; penalty.
6. Sexton, or person having charge of burial ground, in the city of New York, to make weekly report of interments therein; form of report.
7. Ringing of church bells, for funerals, prohibited, without the permission of the Common Council being had; penalty.
8. Penalty for violation of section (6) five of the Revised Ordinances of 1859.

9. Duty of City Inspector to furnish blanks to sextons and other persons having charge of burial grounds.
10. Prohibition of the interment of remains of deceased persons in the city of New York, without a certificate stating name, age, with place of birth, death, &c.
11. Captains of steamboats, and other persons, forbidden to remove or convey the body of any person who shall have died in the city from the city, without a permit from the City Inspector; penalty.
12. Duty of City Inspector to grant permit for removal, on receiving proper certificate, in accordance with section (10) nine of the Revised Ordinances.
13. The Mayor and City Inspector, in ordinary cases, may grant permit for the disinterment and removal of remains of deceased persons; in other cases, application to be made to the Common Council.
14. Interments in the new Roman Catholic (Calvary) Cemetery may be made by general permit, provided the sexton of St. Patrick's Cathedral make report thereof, in conformity with section (10) nine of this chapter of the Revised Ordinances.

No grave to be opened in any burial ground in the city south of 36th street.

§ 2. No person shall dig or open any grave, or cause or procure any grave to be dug, or opened, in any burying ground, cemetery, or church yard, or in any other part or place in the city of New York, south of Eighty-sixth street, or shall inter or deposit, or cause or procure to be interred or deposited, in any such grave, or in any vault or tomb, except in private vaults and private cemeteries now existing, any dead body, within the limits aforesaid, under the penalty of two hundred and fifty dollars. (*R. O.* 1859, *Ch. XLIX.*, § 1.) (*a*)

See R. L., 1813, ch. 56.

New cemetery or burial-ground not to be opened in the city.

§ 3. No new cemetery or burying ground shall hereafter be established in any part of the city and county of New York, and no person shall dig or open any grave, or

(*a*) Ordinance passed February 3d, 1851; Ordinance to take effect May 1st, 1851.

cause or procure any grave to be dug or opened, in any such new cemetery or burying ground, or shall inter or deposit, or cause to be interred or deposited, in any such grave, or in any vault or tomb, in any new cemetery or burying ground, as aforesaid, any dead body, under the penalty of two hundred and fifty dollars for every such offense. (*Same*, § 2.)

§ 4. No person shall inter any corpse in any vault or grave, in the city of New York, north of the limits mentioned in the first section of this chapter, (a) unless such vault or grave shall be, at least, six feet deep, and not less than six feet below the level of the adjacent streets, under the penalty of one hundred dollars for each offense. (*Same*, § 3.) (b)

Interments
to be in
graves at
least six feet
in depth.

§ 5. No person shall remove, disturb, or expose any dead body or coffin, that is now, or may hereafter be interred in any grave-yard in the city of New York, unless permission be first obtained from the Common Council, or as provided in this chapter, under the penalty of two hundred and fifty dollars for each offense. (*Same*, § 4.)

Dead body
or coffin not
to be dis-
turbed after
interment,
without per-
mit obtained

§ 6. Every sexton, or person having charge of any vault or burying ground, in the city of New York, shall, between the hours of nine and two o'clock, of Saturday, in each week, make and deliver to the City Inspector a return of the persons buried in such vault or burying-ground during the week, according to the form following :

Sextons,
and others,
to report in
returns.

[See form in Revised Ordinances of 1859, page 439.] (*Same*, § 5.)

Form of
report.

§ 7. No bell of any church shall be rung or tolled for

Bells for-
bidden to be
rung or toll-

(a) § 2, *supra*.

(b) See Ordinance passed April 23, 1839 ; amended.

ed for funerals without permission being had.

any funeral, without the permission of the Common Council, under the penalty of twenty dollars, to be paid by the sexton or person having charge of the said church. (*Same*, § 6.)

Penalty for violation of section 5, R. O., 1859.

§ 8. Any person who shall violate the provisions of section five of this chapter, (*a*) shall forfeit and pay, for every such offense, the sum of twenty-five dollars. (*Same*, § 7.)

Duty of City Inspector or to furnish blanks.

§ 9. It shall be the duty of the City Inspector to furnish sextons, and other persons having charge of any burying-ground, or vault, with copies of the form set forth in section five of this chapter, (*b*) and the said City Inspector shall report to the Attorney of the Corporation, all violations of any or either of the provisions of this chapter. (*Same*, § 8).

No interment to be made without certificate of physician or member of family of the deceased.

§ 10. No sexton, or other person having charge of any place of interment in the city of New York, shall, under a penalty of two hundred and fifty dollars, inter, or permit to be interred, any dead body therein, without having first received a certificate, stating the name, apparent age, birth-place, date, and place of death, and the disease of which he or she shall have died, signed by the attending physician; or, in case no physician shall have attended such deceased person, then by some [member] of the family of the deceased; or, in case of an inquest having been held, by the Coroner; which certificate shall be deposited with the return in the office of the City Inspector. (*Same*, § 9).

Remains of deceased persons not to be removed from the city without permit from the City Inspector.

§ 11. No captain, agent, or other person attached to any steamboat, ferryboat, sailing, or other vessel; or to any stage, railroad, or other conveyance, public or private,

(*a*) § 6, *supra*.

(*b*) § 6, *supra*.

shall convey the body of any person who has died in the city of New York, beyond the limits of said city, without a permit from the City Inspector, under the penalty of two hundred dollars for each offense, to be collected from the person or persons so offending, severally and respectively. (*Same*, § 10.) Penalty.

§ 12. It shall be the duty of the City Inspector to grant a permit for the removal of the body of any deceased person from the city, which has not been buried, upon receiving a certificate of the death of said person, made in accordance with the provisions of section nine of this chapter. (*Same*, § 11.) Duty of City Inspector to grant permit for removal.

§ 13. In ordinary cases, the Mayor and City Inspector are authorized to permit the removal of the remains of deceased persons from cemeteries, or burial places within the city; but if there are any extraordinary circumstances in the case, they shall refer all applications made to them on the subject to the Common Council. (*Same*, § 12.) (*a*) The Mayor and City Inspector authorized to grant permits for disinterment and removal in ordinary cases. Exception.

§ 14. It shall be the duty of the City Inspector to grant a general permit to the sexton of St. Patrick's Cathedral, for the removal of dead bodies, to be interred in the new Roman Catholic Cemetery, in Newtown, Queens county, Long Island, provided that the said sexton comply with the ninth section of this chapter; (*b*) and all captains, agents, or other persons attached to any steamboat, ferryboat, sailing, or other vessel, or to any stage, railroad, or other conveyance, shall convey the said dead bodies so to be interred, upon the certificate of said sexton. (*Same*, § 13.) (*c*) General permit to be granted for removal and interment in new Roman Catholic (Calvary) Cemetery. Proviso.

(*a*) See resolution, approved by Mayor, Dec. 24, 1845.

(*b*) § 10, *supra*.

(*c*) See Amendment to Ordinances, passed August 3, 1848.

SUPPLEMENTARY ORDINANCES.

RESOLUTION AND SPECIFICATIONS RELATING TO THE REMOVAL
OF NIGHT-SOIL FROM THE CITY, AND MAKING CONTRACT,
FOR THE TERM OF FIVE YEARS, FOR SAID WORK.

* *Resolved*, That the City Inspector be, and he is hereby directed to advertise for proposals, for the exclusive right, for five years, to remove all night soil of this city, and for carrying away all the contents of the sinks and privies, both liquid and solid thereof, beyond the jurisdiction of the Pilot Commissioners of this State, without nuisance, under the following restrictions and specifications, to wit: The contractor to provide, every night in the year, vessels at each and every dock set apart for that purpose, the aggregate tonnage of which vessels shall not be less than fifteen hundred tons burthen, to receive, retain, and transport, beyond the harbor, all the contents of the scavengers' carts; such vessels to be of proper size to receive said contents at any state of the tides; and said vessels to be tight-decked, and properly bulkheaded, with covered hatchways and tight hatches, which shall be closed, except between the hours of ten at night and sunrise in the morning.

The contractor shall not use any dumping-scow or vessel; nor shall he deposit, or permit any of the contents to flow from said vessel into the river, within the jurisdiction of the Pilot Commissioners, under the penalty, as prescribed

* See Chapter VI., Section 18, of this compilation.

by the laws of the State, of one hundred dollars for each and every offense. The contractor and his sureties to become bound to hold harmless, and to be liable to the Corporation, and to all persons interested, including scavengers in the performance of their work, for any penalty, expense, or damage which may arise from the neglect or default of said contractor to furnish proper and sufficient boats at each and every wharf or dock, as above required.

All proposals or bids received, to be, without delay, transmitted to the Common Council for action thereon. The contractor will be required to file security, by two householders or freeholders, in the city of New York, to the amount of twenty thousand dollars, for the faithful performance of his contract. If the contractor shall neglect or refuse to execute his contract, or to furnish proper and sufficient boats at each and every dock, to be of the tonnage above-mentioned, for said service, within forty-eight hours after notice of the action of the Common Council, relative to the award of said contract to him, it will be deemed that said contract has been abandoned, in accordance with section 38 of the amended charter of 1857, and the same shall be immediately readvertised and relet—the difference or loss to the Corporation to be sued for and recovered against the person making default, and his sureties.

The right being hereby reserved to reject any and all proposals or bids received, if deemed to the interest of the Corporation.

Bidders are required to state, in their proposals, their names and places of residence, the names of all persons interested with them, and, if no person be so interested, they shall distinctly state the fact; also, that it is made without any connection with any other person making

any estimate for the same purpose ; and that it is, in all respects, fair, and without collusion or fraud ; and, also, that no member of the Common Council, Head of a Department, Chief of a Bureau, Deputy thereof, or Clerk therein, or other officer of the Corporation, is directly or indirectly interested therein, or in the supplies or work to which it relates, or in any portion of the profits ; which proposals must be verified by the oath, in writing, of the party making the estimate, that the several matters stated therein are, in all respects, true ; where more than one person is interested, it is requisite that the verification be made and subscribed by all the parties interested.

Each proposal shall be accompanied by the consent, in writing, of two householders or freeholders of the city of New York, with their respective places of business or residence, to the effect that, if the contract be awarded to the person making the bid, they will, on its being so awarded, become bound as his sureties for its faithful performance ; that, if he shall omit or refuse to execute the same, they will pay to the Corporation any difference between the sum to which he would be entitled on its completion, and that which the Corporation may be obliged to pay to any higher bidder to whom the contract may be awarded at any subsequent letting. The consent above mentioned shall be accompanied by the oath or affirmation, in writing, of each of the persons signing the same, taken before a judge of any court of record in this county, that he is a householder or freeholder in the city of New York, and is worth the amount of the security required for the above work, over and above all his debts of every nature, and over and above his liabilities as bail, security, or otherwise ; that he has offered himself as surety in good faith, and with an intention to execute the bond required

by section 506 of the ordinance organizing the municipal government of the city of New York, and prescribing their powers and duties, if the contract shall be awarded to the person or persons for whom he consents to become surety.

The adequacy and sufficiency of the sureties offered to be determined by the Comptroller.

The amount of security required is two sureties, householders or freeholders in the city of New York, to the amount of twenty thousand dollars.

A strict compliance with the provisions of Part 3, Title 3, of the ordinances organizing the departments of the municipal government, passed May 30th, 1849, and as subsequently amended, will be observed and required in all cases.

The right to decline or reject all or any of the proposals is reserved, if deemed for the interest of the Corporation, and no proposal will be accepted from, or contract awarded to, any person who is in arrears to the Corporation upon debt or contract, or who is a defaulter, as security or otherwise, upon any obligation to the Corporation.

Adopted by the Board of Aldermen, August 1, 1859.

Adopted by the Board of Councilmen, Sept. 12, 1859.

Approved by the Mayor, Sept. 26, 1859.

[The following extracts, from the Revised Ordinances of 1859, while they do not connect with the duties of the Executive Department, which has "cognizance of all matters affecting the public health," yet, as the work of keeping the sewers and culverts free from obstruction and in good repair, which devolves upon the Croton Aqueduct Department, as also the abundant supply of pure water for the use of our citizens, are essential to the preservation of the public health, these extracts are given a place in this compilation as a matter of information.]

Extracts from Revised Ordinances, 1859.

CHAPTER VI.

OF SEWERS, DRAINS, &C.

Sewers,
drains, &c.,
to be under
the charge of
the Croton
Aqueduct
Department.

§ 8. All sewers and drains in any of the streets, avenues, or public places in the city, shall be under the charge of the Croton Aqueduct Board, who shall keep the same in good order and condition, and clean and free from obstructions, and shall cause such repairs to be made to them and to the receiving-basins, culverts, and openings connected therewith, as may from time to time become necessary. Such sewer-culverts shall be cleaned at night, and not in the day-time.

Croton
Aqueduct
Board may
grant per-
mission to
construct
private
sewers to
connect with
sewers in
any of the
streets, ave-
nues, &c.

§ 10. They [the Croton Aqueduct Board] may, with the consent of the Street Commissioner, grant permission to persons to construct, at their own expense, sewers or drains, or to lay pipes to connect with any sewers or drains built in any of the streets or avenues in this city, on being furnished with the written consent of the owners of a majority of the property upon the street through which such sewer,

drain, or pipe is to pass; but such permission shall not be granted, except upon the agreement, in writing, of the persons applying therefor, that they shall comply with the ordinances in relation to excavating the streets; that they will indemnify the Corporation for any damages or costs to which they may be put, by reason of injuries resulting from neglect or carelessness in performing the work so permitted, and that no claim will be made by them, or their successors in interest, against the Corporation, if the work so permitted be taken up by authority of the Common Council, or for exemption from an assessment lawfully imposed for constructing sewers or drains in the same vicinity; and upon the further condition that the Common Council may, at any time, revoke such permission, and direct such sewers, drains, or pipes, to be taken up or removed.

Exception.

Conditional.

§ 11. If any connection or opening be made into any sewer or drain, without the permission authorized in the last section, or in a mode different from that prescribed therefor, the person making such connection or opening, and the owner directing it, shall respectively be liable to a penalty of fifty dollars.

Penalty for making connection with public sewer without permission.

§ 12. All openings into sewers or drains for the purpose of making a connection therewith from any house, cellar, vault, yard, or other premises, shall be made by persons licensed, or to be licensed, in writing, for that purpose, by the Croton Aqueduct Board.

Persons to be licensed

§ 13. Every person who now is, or who shall be, licensed as provided in the last section, shall, before performing any work authorized thereby, execute and deposit in the Croton Aqueduct Department a bond to the Corporation, in the sum of one thousand dollars, with one or more

Bond to be given.

sufficient sureties, to be approved by the President of the Board, conditioned that he will faithfully make the opening into such sewers, or drains; that he will leave no obstructions of any description whatever therein; that he will properly close up the sewers or drains so opened; that he will make no opening into the arch of any sewer or drain; that he will comply with the ordinances in relation to excavating the streets, and that he will indemnify the Corporation of and from all accidents and damages consequent thereupon, for or by reason of any opening in any street, lane, or avenue made by him, or by those in his employment, for the purpose of putting down any service-pipe, or pipes, for the introduction of the Croton water, or for making any connection with any public or private sewer, or for any other purpose or object whatever; and that he will also replace and restore the street pavement, over such opening, to as good state and condition as he found it, and keep and maintain the same in good order, to the satisfaction of the Water Purveyor, for the period of six months next thereafter.

License fee
for permit.

§ 14. There shall be paid to the President of the Croton Aqueduct Board, for the use of the Corporation, for every permit to connect with a sewer or drain from any house, store, or building, the sum of ten dollars; and for every hotel, boarding house, or public building, covering more than twenty-five by fifty feet, an additional sum in that proportion.

Id., in re-
lation to fac-
tories, brew-
eries, &c.

§ 15. There shall be paid to the President of the Croton Aqueduct Board, for the use of the Corporation, for every permit to connect with a sewer or drain, from a manufactory, brewery, distillery, or the like, for the purpose of carrying off water, or fluid, which shall not deposit sedi-

ment or obstruction, such sum as shall be fixed by the Croton Aqueduct Board.

§ 16. Any person obtaining a permit, as provided in the last section, who shall permit any substance, which shall form a deposit or obstruction in a sewer, drain, or receiving-basin, to flow into the same, shall be liable to a penalty of fifty dollars for each offense.

Penalty for allowing sewer, drain, or basin, to become obstructed.

CHAPTER XVI.

OF SEWERS, DRAINS, &C.

§ 1. All sewers or drains, in any of the streets, avenues, and public places in the city of New York, shall be in charge of the Croton Aqueduct Board, whose duty it shall be to keep the same in good order and condition, to cause such repairs to be made to them, and to the receiving basins, culverts, openings, or any part connected therewith, as may from time to time become necessary, and to cause the same to be well and sufficiently cleansed, and kept free from obstructions. (a)

Sewers, drains, &c., to be kept clean and free from obstruction.

§ 9. All connections with sewers or drains, used for the purpose of carrying off animal refuse from water closets, or otherwise, and slops of kitchens, shall have fixtures for a sufficiency of Croton water, to be so applied as to properly carry off such matters, under the penalty of five dollars for each day the same are permitted to remain without such fixtures for supplying said water.

Refuse matter, kitchen slops, &c., to be carried off by flow of Croton water.

Penalty.

(a) Ch. XVI., Sec. 2 to 8, R. O., 1859, contain provisions similar to those embraced in Ch. VI., before quoted.

Inspection
of sewers,
basins, &c.

§ 10. Said Board shall have authority to employ a suitable person, at a compensation not to exceed one dollar and fifty cents per day, to examine the condition of all sewers, receiving basins, culverts, and their appendages, and fixtures to connections therewith.

Butchers'
offal, garb-
age, &c., not
to be placed
or thrown in
any basin or
sewer.

§ 11. No butcher's offal, or garbage, dead animals, or obstructions of any kind whatsoever, shall be placed, thrown, or deposited in any receiving basin or sewer; and, any person so offending, or causing any such obstruction or substance to be placed so as to be carried into such basin or sewer, shall be subject to a penalty of ten dollars for each offense; and any person injuring, breaking, or removing any portion of any receiving basin, covering-flag, man-hole, vent, or any part of any sewer or drain, or obstructing the mouth of any sewer or drain, shall be subject to a penalty of twenty dollars for each offense; nor shall any quantity of marble, or other stone, iron, lead, timber, or any other substance, exceeding one ton in weight, be placed or deposited upon any wharf or bulkhead, through which any sewer or drain may run; nor upon or over any sewer or drain, where the same shall be within three feet of the surface of the street, under the penalty of fifty dollars for each offense, to be recovered of the person or persons causing or permitting the same.

Penalty.

Penalty for
removing
covering to
basin, man-
hole, &c.

When
streets are
cleaned, gut-
ters to be
scraped out
before wash-
ing with Cro-
ton water.

§ 13. It shall be the duty of every person having charge of the sweeping and cleaning of the streets in the several wards, to see that the gutters are properly scraped out before the water is suffered to flow from any hydrant, for the purpose of washing the same, in order that no substance or obstruction be carried into any of the receiving basins; every person violating this section to be subject to a penalty of five dollars for each offense.

Penalty.

CHAPTER VI.

OF REPAIRS TO STREETS.

§ 19. The Croton Aqueduct Board shall ascertain and report to the Common Council, from time to time, what repairs are necessary to any of the streets; and, when required by the Common Council, the said Board shall inquire into and report upon all applications to the Common Council, in relation to paving, repaving, or repairing streets, or digging wells. The said Board shall advertise for estimates and contracts for wells and pumps, and for paving, repaving, and repairing the streets.

Necessary
repairs to
streets.

CHAPTER VI.

OF THE SUPPLY OF PURE WATER, &C.

§ 56. If any person shall bathe, go into the Croton water, at either of the reservoirs, or any part of the Croton Aqueduct, or shall throw any stones, chips, or dirt, or any other material, substance, or thing, whatever, into the reservoirs, or into the water, or gate-houses, or into the ventilators or aqueduct, or fountain-basins, or shall, in any manner, injure or disfigure any part of the Croton Aqueduct Works, he shall be subject to a fine not to exceed fifty dollars, to be imposed by any police justice, or any magistrate, either on his view, or in a summary manner. And, in default of payment of any fine so imposed, such

Bathing in
the Reser-
voirs and
the throwing
of any sub-
stance or
thing into
the water
prohibited.

Penalty.

police justice, or magistrate, shall commit such offender to the city prison for a period not to exceed thirty days, unless such fine is sooner paid.

Hydrants not to be opened except in case of fire.

§ 58. No person or persons, except the mayor, aldermen, and councilmen of the respective districts, shall, without previous permission, in writing, from the Croton Aqueduct Board, unscrew or open any hydrant belonging or attached to the Croton Aqueduct Works, erected for the extinguishment of fires, except in cases of fires in the neighborhood; nor shall leave said fire hydrant open for a longer time than shall be limited in said permission; nor shall use the water for other purposes than may be mentioned in said permission, under the penalty of not less than five dollars, nor more than twenty-five dollars, for each offense, in the discretion of the magistrate before whom the complaint shall be made. (a)

Penalty.

Permit to City Inspector to use Croton water.

§ 61. The Croton Aqueduct Board shall, at all times, when the general supply of water is not thereby endangered, permit the City Inspector to order the hydrants to be used for cleaning the streets, under the regulations of said Board.

Regulation in reference to washing streets.

§ 62. No person or persons shall use the Croton water for washing the streets, sidewalks, steps or buildings, from the first day of May to the first day of November, following, in each year, after 8 A. M., and from the first day of November to the first day of May, following, after 9 A. M., under the penalty of five dollars for each offense.

(a) Revised Ordinances, 1859 (Ch. VI., § 64), provides that the penalty prescribed in § 58 shall be imposed in like manner as provided in § 56, in respect to the penalty therein prescribed; and, in default of payment, the offender be subject to the like punishment as in the said section prescribed.

CHAPTER XIX.

§ 8. No person shall take or use the water from any public cistern or hydrant, except in case of fire, and for the purpose of extinguishing the same, under the penalty of twenty-five dollars for each offense. ^{Hydrants not to be opened but in case of fire.}

§ 9. No person, having charge of any public cistern or hydrant, shall suffer or permit any water to be taken therefrom, except for the purpose of extinguishing fire, under the penalty of twenty-five dollars for every such offense. ^{11.}

§ 13. If any person, except one of the engineers or foremen of the fire companies, shall unscrew any of the hydrants belonging or attached to the Corporation water works, erected for the extinguishment of fire, or interfere with the same, or any part of the works belonging to the said establishment, whereby the said establishment, or any or either of the pipes, hydrants, stop-cocks, or any part of the works, may be injured, or the water taken therefrom or wasted, they shall be liable to a penalty of fifty dollars for each and every such offense. ^{1a.}

AN ORDINANCE, *describing and extending the Limits of the Lamp District.*

§ 1. The lamp district shall, after the passage of this ordinance, embrace all that portion of the city lying south of and including Forty-second street, from East to the North rivers, and all the streets, avenues, or alleys lying above Forty-second street, to the extent of the city, which are now lighted with either gas or oil lamps.

§ 2. All those streets, alleys, or avenues which may, by resolution of the Common Council, or by the Commissioner of Streets and Lamps, (*a*) become hereafter lighted with either gas or oil, be immediately included in the lamp district, and all proportion of expense in the lighting of the said lamp district, as by the conditions of this ordinance it shall exist or be enlarged, shall be levied upon the lots fronting on said streets, avenues, or alleys, as may be lighted.

§ 3. The ordinance passed July 6, 1846, and all other ordinances inconsistent with the provisions of this ordinance, are hereby repealed.

Adopted by the Board of Councilmen, Nov. 17, 1854.

Adopted by the Board of Aldermen, Dec. 15, 1854.

Approved by the Mayor, Dec. 16, 1854.

(*a*) The office of Commissioner of Streets and Lamps was abolished by the Charter of 1857, and the duties relating to Lamps and Gas transferred to a bureau in the Street Commissioner's Department.

ADDENDA.

THE compiler respectfully submits the following explanatory remarks and citation of authorities, as contained in decisions on record, in the belief that such remarks and quotations may prove useful in elucidating the laws and ordinances relating to the public health, as herein embodied.

NUISANCES.—Health is of vast importance to man, for without health, the blessings of life cannot be enjoyed. The law protects it whenever it is assailed. When the injury to health is so great as to affect the public, as by the erection of a nuisance, the party guilty of erecting it may be indicted. (*Bowyer's Institutes, Vol. I, p. 88.*)

But the nuisances which it is made the duty of the City Inspector to abate, are only such as are comprised in the common acceptation of the term, meaning only such as directly tend to the detriment of the public health. A nuisance is anything which unlawfully and tortiously does hurt, or causes inconvenience or damage; and it is either public or private.

A *public* or common nuisance, is such an inconvenience, or troublesome offense, as annoys the whole community in general, and not merely some particular person. (1 *Hawk, P. C.*, 197; 4 *Black's Com.*, 166, 167; *Wharton's Cr. Law*, § 2372.) Therefore, to constitute a public nuisance, there must be such a number of persons annoyed that the offense can be no longer considered a private nuisance. This is a fact which generally is to be found by the jury. (*Bow. Inst., Vol. I, p. 506.*)

It is difficult to define what *degree of annoyance* is necessary to constitute a nuisance. In relation to an offensive trade, it seems that when such trade renders the enjoyment of life and property uncomfortable, it is a nuisance, for the people of the

neighborhood have a right to pure, fresh air. (*Bouv. Inst., Vol. II, p. 506.*) A thing may be a public nuisance in one place, which is not so in another ; therefore the *situation* or *locality* of the nuisance must be considered. Thus, while it is laid down as a general rule, that any trade, the carrying on of which is offensive to the senses or the health, is a nuisance. (*Whar. Crim. Law, § 2372.*) Yet it has been held that a tallow chandler setting up his business among other tallow chandlers, and thereby increasing the noxious smell of the neighborhood, is not guilty of setting up a nuisance, unless the annoyance is much increased by the new manufactory. (*Rex. v. Neville, Peake's Case, 91.*) Such an establishment might be a nuisance in a thickly-populated town of merchants and mechanics, where no such business was carried on. (*State v. Purse, 4 McCord R. 472 ; Whar. Crim. Law.*)

A slaughter house in a part of a city where there are dwelling houses near it, and where lots are valuable for building purposes, is, *prima facie*, a nuisance. (9 *Paige*, 575; 3 *Barb.*, 157.) A swineyard in a city is, *per se*, a nuisance. (*Whar. Crim. Law, § 2372*) ; so is a soap factory in a city. (*Howard v. Lee, 3 Sand, 281*) ; or a fat-boiling establishment, if it infect the air with noisesome smells, or with gases injurious to the health. (*Cropsey v. Murphy, 1 Hilton, 126.*)

A dwelling house, cut up into small apartments, inhabited by a crowd of poor people, in a filthy condition, and calculated to breed disease, is a public nuisance. (*Meeker v. Van Rensselaer, 15 Wend., 397.*) But a person lying sick with the small-pox, at hired rooms in a hotel, is not a nuisance. (*Boom v. The City of Utica, 2 Barb., 104.*)

[NOTE. — Frequent complaints have been made to the City Inspector, by persons residing in or owning tenant and boarding houses, when persons therein became sick with small-pox, varioloid, or other contagious or infectious disease ; and the complainants have, in such cases, been astonished to learn, that by the law of the land, as well as by that of humanity, the sick persons complained of could not

legally be removed by compulsion. The act of 1850 confers the power, and made it the duty of the Board of Health, "To forbid and prevent all communication with the house or family infected with any contagious, infectious, or pestilential disease, except by means of physicians, nurses, or messengers to carry the necessary advice, medicines and provisions to the afflicted ;" and to adopt such measures as shall be prompt and effectual for preventing all communication with any part of the city so infected.]

It is an indictable offense, unlawfully and injuriously to carry a child infected with the small-pox along the public highway in which persons are passing, and near to the habitations of the king's subjects. (*Rex. v. Vantandillo, M. & S. 73.*) It is also indictable, after having inoculated children, to cause them to be exposed in the public street, to the danger of the public health. (*Rex. v. Burnett, 4 M. & S., 272.*) In the latter case, LE BLANC, J., said, that in all times it was unlawful and an indictable offense, to expose persons infected with contagious disorders, and therefore liable to communicate them to the public, in a place of public resort.

Two persons were indicted for making great quantities of *noisome, offensive and stinking liquors*, called acid spirit of sulphur, oil of vitriol, and oil of aquafortis, whereby the air was impregnated with noisome and offensive smells ; and it was held by the Court to be a nuisance. The word "noisome" comes in the place of the Latin *nocivus*, and means not only disagreeable but hurtful. Lord MANSFIELD, C. J., said it was not necessary, to constitute the offense, that the smell should be *unwholesome* ; it is enough if it render the enjoyment of life and property uncomfortable. (*Rex. v. White & Ward, 1 Barrow R. 333.*)

REMEDY FOR NUISANCES.—"The government may, by general regulations, interdict such uses of property as would create nuisances, and become dangerous to the lives or health, or peace, or comfort of the citizens. Unwholesome trades,

slaughter houses, operations offensive to the senses, the deposit of powder, the application of steam power to propel cars, the building with combustible materials, and the burial of the dead, may all be interdicted by law, in the midst of dense masses of population, on the general and rational principle, that every person ought so to use his property as not to injure his neighbors, and that private interests must be made subservient to the general interests of the community." (2 *Kent's Com.*, 420.)

A public nuisance may be abated by the mere act of individuals (*Wetmore vs. Tracy*, 14 *Wend.*, 250); and a dog that has been bitten by a mad dog, is a nuisance, and any one may kill him (*Putnam vs. Payne*, 13 *Johns.*, 312). But the usual manner is to indict the person creating a nuisance; or, in some cases, courts of equity will restrain by injunction; although, in many of the cases which are indictable as common nuisances, courts of equity have no cognizance. The remedy, at the suit of the people, by a public prosecution, will, in general, accomplish the object of suppressing the injury, and render unnecessary the prosecution by individuals. Not only the party who continues a nuisance, but the party who originally began it, is responsible to the public. One who demises his property for the purpose of having it used in a way offensive to others, may himself be treated as the author of the mischief. (*Willard's Eq. Juris.*, p. 390.)

The court will restrain, by injunction, the carrying on in a city, or dense population, of trades which are offensive to the senses, and render the enjoyment of life and property uncomfortable, or are injurious to the health of those residing in the vicinity. (*Howard vs. Lee*, 3 *Sand.*, 281.) In the case of the "Butchers' Melting Association," organized for the purpose of conducting, on a large scale, the melting of the fat and tallow from animals slaughtered by the butchers of the city generally, the defendant had bought a plot of ground at the northwest corner of Fourth street and First avenue, in the city of New

York, for that purpose; but the court perpetually enjoined the use of it. (*Peck vs. Elder*, 3 *Sand.*, 126.)

Even where such a trade has long been established in the place where its continuance is sought to be enjoined, it must, nevertheless, give way, and recede with the advance of population. (*Howard vs. Lee*, *supra.*)

An indictment lies against a corporation for neglecting to do what the common good requires, as when the corporation of a city have power to excavate, deepen, and cleanse a basin connected with a river, but neglect to take the necessary measures in that respect, after such basin becomes foul by the aggregation of mud and other substances, whereby noisome and unwholesome stenches arise, and a nuisance is created. (*K. vs. Vigg.*, 2 *Salk.*, *Nuisance*, § 7; *Com. vs. Van Sickle*, *Brightly R.*, 69; 4 *Cr. Rec.* 26; *Whart. Cr. Law.*, § 2374.) Under a provision of a municipal corporation, authorizing it to pass and enact by-laws and ordinances to *abate* and *remove nuisances*, it has no power to pass an ordinance to *prevent* nuisances, or to impose penalties for the creation thereof. (*City of Rochester vs. Collins*, 12 *Barb. R.*, 559.) But under a power to do all acts, make all regulations, and pass all ordinances which they shall deem necessary for the *preservation of health*, and the suppression of disease, and to carry into effect and execute the powers granted by the charter, a municipal corporation has power to pass an ordinance prohibiting the depositing of dead animals, decayed vegetables, &c., in any public street, or upon any lot, &c., and imposing a penalty for the violation of such ordinance. (*Ibid. See Sec. 2, Tit. III., Art. I., Act of 1850.*)

The Common Council has no power to order the forcible seizure of a person's house, and its occupation as a pest-house, without his consent, and against his will. (*Boom vs. The City of Utica*, 2 *Barb.*, 104.)

The Board of Health of Albany may direct the abatement of a building, as a nuisance dangerous to public health; and, it

seems, any one may, of his own motion, abate such building as a nuisance, especially in time of pestilence. (*Van Wormer vs. Mayor of Albany*, 15 *Wend.*, 262.)

It is only where a regulation of a board of health has been made and *published*, that a person can be convicted under the 4th section of the Act of 1850, passed April 10, of a misdemeanor for its violation. (*Reed vs. The People*, 1 *Parker. Cr. R.*, 481.)

An order of a board of health, made *ex parte*, and adjudging certain premises to be a common nuisance, and directing the cleansing and purification of the same within three days after the service of such order, is not such a regulation as is contemplated by the fourth section of the statute, and a failure to comply with such order does not subject the person offending to punishment for a misdemeanor, under the section aforesaid. (*Reed vs. The People*, *supra*.)

WELLES, J. said, in that case: "The Board of Health probably had power to adjudge and declare the premises a nuisance, and to procure it to be abated."

The eighth subdivision of the fourth section gives them all needful facilities for so doing, and the fifth section of the act makes the county chargeable for all expenses, except that of the compensation to the members of the board, which latter are chargeable upon the city or town. The *regulations* which the boards of health have power to make, so as to attach to the violation of them the penalties provided in the fourth section, are to be in the nature of by-laws; they are to be prescribed and published, and are to affect, generally, all persons within the scope of their operation. The term is to be understood in contradistinction to a judgment, sentence, decree, or order, and contemplates the exercise of a power, in its character legislative, rather than judicial.

The following is the latest decision relating to boards of health:

The third subdivision of section fourteen of the act concern-

ing boards of health confers upon those boards the power to make regulations for the suppression and removal of nuisances, and must be construed to have reference to that class of nuisances which can be the subject of regulation.

Neither a dam, thrown across a stream, nor a collection of water in a reservoir, created thereby, is a nuisance *per se*. The question of nuisance depends upon the presence or absence of various extraneous facts and circumstances. And it is proper that the existence of those facts and circumstances, and the question of nuisance, should be referred to the common law trial by jury; instead of being determined by the Board of Health, and property being summarily destroyed by its order, without compensation to the owner, and without an opportunity being given him to be heard. The legislature never designed to commit that unusual measure of power to the boards of health. The rights of property, of every description, are qualified and restricted by the rule that they shall be so exercised as not to injure others. *Sic utere tuo ut alienum non lædas* is of universal application. But, except in great and imminent emergencies, the fact that they are injurious to others must be first established by the usual and customary proceedings of a trial in a competent court, before they can be taken away or destroyed.

Even if the power exists in boards of health to order property to be destroyed, on the ground of its being a nuisance, and can be applied to the removal and destruction of a mill-dam and a valuable power used for manufacturing purposes, it is a power which must be exercised in subordination to the judicial authority of the State, and subject to be suspended and held in abeyance by the order of a court having competent jurisdiction of the subject, whenever the principal facts upon which its exercise depends are put in controversy and rendered doubtful, until they are established by due process of law. If a board of health has authority and jurisdiction to determine the question of nuisance, and to order the suppression and removal of a dam, as such, they should be required to state, in

their adjudication, what the nuisance is—whether the dam itself, or the waters collected above the dam, and, if the latter, how much of the structure shall be removed in order to dissipate and disperse the waters; and especially should the order, or adjudication, designate the particular dam or obstruction which they shall design to be taken away. (*Rogers vs. Barker et als.*, *Dutchess Co. Gen. Term Supreme Court, May, 1860.* 31 *Barb.*, 447.)

QUARANTINE LAWS.—Health and quarantine laws have been continually passed by the State, ever since the adoption of the Constitution, and the power to pass them recognized by acts of Congress, and the revenue officers of the general government directed to assist in their execution. (*Ch. J. Taney's Opinion, License Cases*, 5 HOWARD U. S. REPORTS, p. 581.)

They subject the ship, and cargo, and crew, to the inspection of a health officer appointed by the State; they prevent the crew and cargo from landing until the inspection is made, and destroy the cargo if deemed dangerous to health. And, during all this time, the vessel is detained at the place selected for the quarantine ground by the State authorities.—*Ibid.*

Quarantine laws, which protect the public health, compel mere commercial regulations to submit to their control. They restrain the liberty of the passengers; they operate on the ship which is the instrument of commerce, and its officers and crews, the agents of navigation. They seize the infected cargo, and cast it overboard. The soldier and the sailor, though in the service of the government, are arrested, imprisoned, and punished for their offenses against society.—PER GRIER, J. (*Ibid.*)

The establishment of the first quarantine in the city of New York, was in 1758; but a rigid quarantine was not established until 1805. Vessels were allowed to come up to the wharves of the city before the Health Officer boarded them. There was no such thing as a quarantine establishment at Staten Island, or its vicinity; and, at that time, there were no such laws in

force as we now have. In the thirty-four years prior to the year 1806, the city of New York had no less than seventeen visitations of yellow fever. In 1804, an act of the Legislature of New York was passed, prohibiting vessels from coming within three hundred yards of the Island of New York ; and, in 1806, another act was passed, restricting vessels from the West Indies, and the Mississippi, to four days' detention at Quarantine. Since 1809, the visitations of yellow fever have been but few—the decrease being due, beyond doubt, to the vigilant enforcement of quarantine regulations.

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