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OF THE

STATE OF NEW YORK,

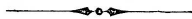
RELATING TO THE

Metropolitan Board of Health,

AND TO THE

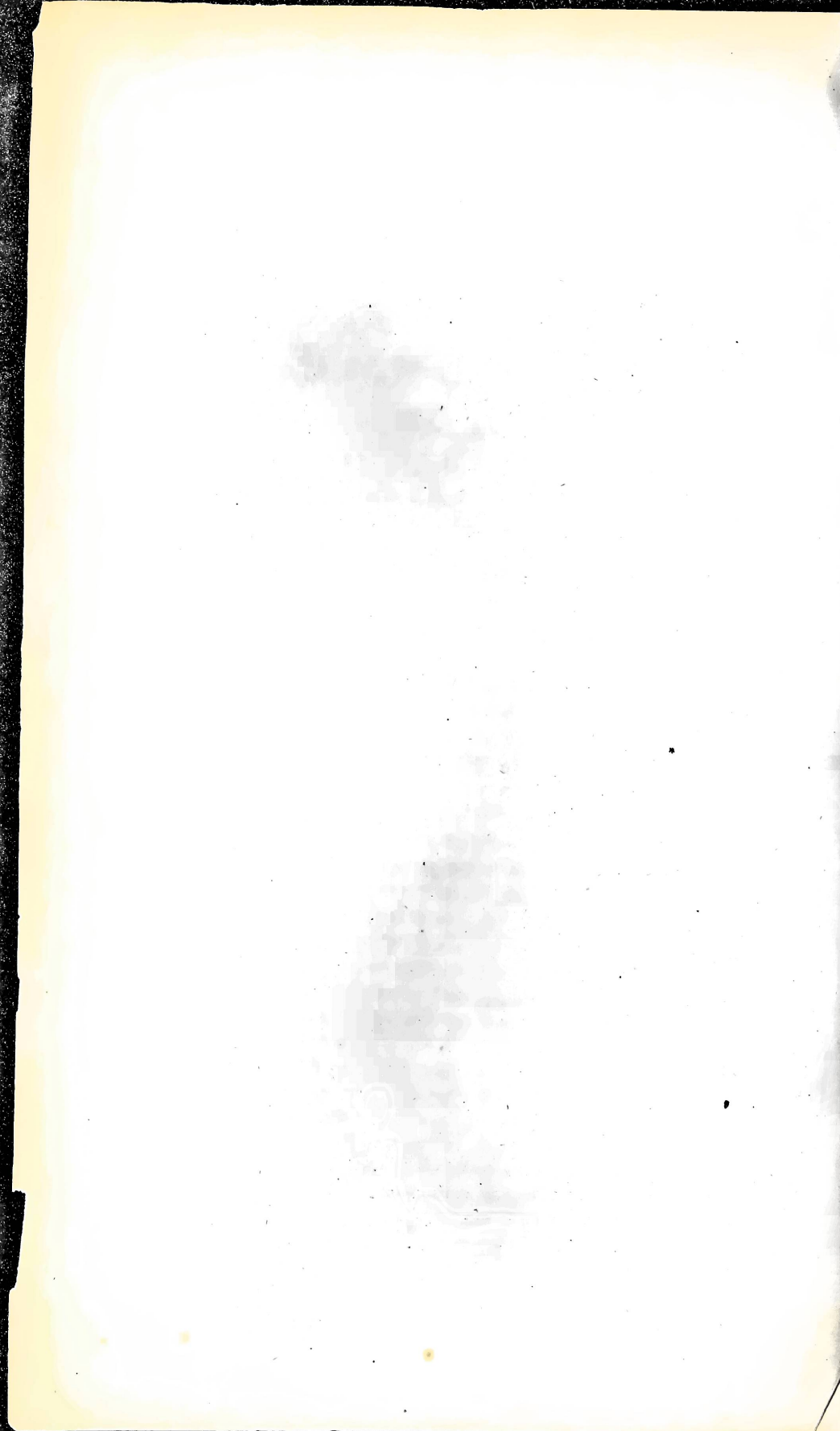
Metropolitan Board of Excise,

PASSED IN 1866 & 1867.



NEW YORK:
BERGEN & TRIPP, STEAM PRINTERS,
114 NASSAU STREET.

1867.



LAWS OF 1866.

CHAPTER 74.

AN ACT to Create a Metropolitan Sanitary District and Board of Health Therein, for the preservation of Life and Health, and to Prevent the Spread of Disease. Passed February 26, 1866, three-fifths being present.

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

SECTION 1. So much of the territory of the State of New York, and of the cities, villages and towns thereof, as now composes the Metropolitan police district of the State, of New York, shall constitute, and is hereby declared, a district to be known as "The Metropolitan Sanitary District of the State of New York."

Limits of district.

§ 2. Within fifteen days after the passage of this act the Governor shall nominate, and, by and with the consent of the Senate, shall appoint four suitable persons, residents of said district, three of whom must be physicians, and one of whom shall be a resident of the city of Brooklyn, who, with the Health Officer of the port of New York for the time being, shall be Sanitary Commissioners in and for said district; and the said Sanitary Commissioners, together with the Commissioners, for any time being, of the Metropolitan Police, (not exceeding four, and being the present four and their successors,) shall constitute a board of health for the said Metropolitan sanitary district, and said board shall be designated "The Metropolitan Board of Health;" any five members of which, at any regularly called or adjourned meeting, shall organize and constitute a quorum for the transaction of business; and the phrase "said board," or "the board," when used herein unless clearly referring to some other body, shall be construed to mean said "The Metropolitan Board of Health" and the phrase "said district," or "the district," unless the same clearly refers

Mode of appointment of first commissioners.

Sanitary Commissioners.

Designation of Board.

Quorum.

Meaning of phrases.

to some other district, shall be construed to refer to said "The Metropolitan Sanitary District of the State of New York." And the term "sanitary commissioners" shall refer to the members of said board who are not also members of the Board of Police, and whenever the words "police," "board of police," or "police commissioners" are used in this act, they shall be taken and construed to mean the "Board of Metropolitan Police Commissioners of the Metropolitan police district of the State of New York." And whenever the words "place, matter or thing," or either two of said words, are used in this act, they shall, unless the sense plainly requires a different construction, be construed to include whatever is embraced in the enumeration with which they are connected in either and both clauses of the fourteenth section of this act.

Official term of
first Commis-
sioners.

§ 3. The said four persons so appointed shall hold office as such Sanitary Commissioners respectively for the terms following namely: One for one year, one for two years, one for three years and one for four years, and until their successors are appointed and qualified. Immediately after the appointment of said four persons as aforesaid, they shall meet in the office of the Secretary of State, and shall proceed, under his direction, to determine by lot which of them shall hold, for the respective terms of one, two, three, and four years, the said office of Sanitary Commissioner. Immediately, and before entering upon the duties of the office, they shall take the oath prescribed for State officers by the constitution of the State, and shall file the same in the office of the Secretary of State, who upon receiving the said oath of office, shall issue to each of said commissioners a certificate of appointment for his respective term of office so determined as aforesaid; upon receiving which they shall severally be and become Sanitary Commissioners, and shall possess and exercise the powers and perform the duties of said board as defined in this act.

Oath.

Term of Office
and appoint-
ment of subse-
quent commis-
sioners.

Vacancies.

§ 4. The term of office of each of the said Sanitary Commissioners, after the expiration of the terms aforesaid, shall be four years, and they shall be appointed upon the nomination of the Governor, by and with the advice and consent of the Senate. Any vacancies that may occur by reason of death, resignation, removal from office or otherwise, shall be filled in like manner, But if any vacancy shall occur during the recess of the Senate, the Governor may fill such vacancy by appointment, and the person so appointed shall hold office until twenty days after the next meeting of the Senate.

§ 5. * Immediately after the four appointed Sanitary Commissioners shall have taken the oath of office as above provided, they shall meet with the Commissioners of the Metropolitan Police, and the Commissioners of Metropolitan Police with them and the Health officer of the port of New York, and organize as a Board of Health by electing one of said Board to be President, and one of said Board to be Treasurer thereof, and by appointing a proper person to be Secretary of said Board. And the successive Presidents of said Board of Health shall be annually elected by the said Board from the members thereof, and the successive Treasurers shall be members of said Board; but the Secretary shall not be a member of the Board. The Treasurer and Secretary shall respectively continue in office as such until removed by the election of a successor or otherwise. The said Sanitary Commissioners shall each receive a salary of two thousand five hundred dollars a year; and each Police Commissioner who may be a member of said Board of Health, and the Health officer, shall as such receive a salary of five hundred dollars a year; † and the member of said Board of Health, who acts as Treasurer, shall receive an additional compensation of five hundred dollars a year for his services as Treasurer. All salaries allowed under this law shall be payable as the Board shall provide. But for every regular or special meeting of said Board, which any Sanitary Commissioner or the Secretary shall fail to attend, there shall be deducted from the salary of the person so failing the sum of ten dollars; and for every failure of a Police Commissioner, or of said Health officer to attend any such meeting, there shall be deducted from his said salary the sum of two dollars; and it shall be the duty of the Treasurer to see that all such deductions are made before payments of said salaries. ‡ The Board may appoint a Corresponding Secretary at an annual salary not exceeding one thousand dollars.

Organize.

President.

Treasurer and Secretary.

Salaries.

Failure to attend meetings.

Corresponding Secretary.

§ 6. The President of the said Board shall preside and preserve order at the meetings of the Board; and in case of the absence of or inability of the regular Secretary to attend, he shall appoint a Secretary *pro tem.*, who, for the time being, may perform any duty of the Secretary. || The President shall have all the power and authority given to the "City Inspector," in the six hundred and forty-sixth chapter of the laws of eighteen hundred and sixty-

President.

Street Cleaning.

* Amended, Laws of 1866, Chapter 686, Section 4.

† Amended, Laws of 1867, Chapter 956, Section 16.

‡ Amended, Laws of 1866, Chapter 686, Section 4.

|| Amended, Laws of 1867, Chapter 956, Section 1.

five, (passed May first, eighteen hundred and sixty-five), in respect to the making, awarding or executing of a contract or contracts for street cleaning, or any matter thereto pertaining. But nothing herein contained shall be construed as effecting in any manner the validity of any contract heretofore made by virtue of said act. And the Board at any time, in the absence of the President or Secretary, may elect a President or Secretary *pro tem.* from their number, who shall exercise the powers of such officers respectively.* The Secretary shall, subject to the direction of said Board, keep and authenticate its acts, records, papers, and proceedings, preserve its books and papers, conduct its correspondence and aid in accomplishing the purposes of this law, as the Board may direct; and said officer (as well as the other officers and agents appointed by said Board) shall be subject to removal by the Board for cause, to be entered in its minutes, and said Board may appoint his or their successor; and his salary, to be fixed from time to time by the Board, shall not exceed three thousand five hundred dollars annually. Said Board may design and adopt a seal and use the same in the authentication of its orders and proceedings, commissioning its officers and agents, and otherwise, as the rules of the Board may provide.

§ 7. The Treasurer of said Board shall be the fiscal officer of the Board. He shall hold, and on check and voucher, duly disburse, as said Board may order, and for the purposes of and in conformity to this act, the moneys he may receive, or belonging to the fund herein provided; and shall deposit the same when paid to him by the Treasurer of the State of New York, or otherwise, and pending the regular disbursement thereof, in a bank or banks in the city of New York designated by such last named officer. He shall execute a bond, with not less than two sureties, conditioned in a penalty of thirty thousand dollars, to the people of the State of New York, for the faithful discharge of his duties as such Treasurer. The sureties, not less than two in number, shall justify before a Justice of the Supreme Court, in the aggregate in a sum not less than twice the last named amount; but before the said Treasurer shall enter upon his duties the said bond shall be approved by and filed with the Comptroller of the State. The Treasurer shall keep, or cause to be kept, books showing all his receipts and payments, and shall preserve his vouchers therefor; and should any collections ever be made on such bond, or in suits or proceedings, or otherwise, by said

* Amended, Laws of 1867, Chapter 956, Section 1.

Old contracts.

Officers, *pro tem.*

Duties of Secretary.

Salary of Secretary.

Seal.

Treasurer.

Bond.

Treasurer's accounts.

Board, the amount thereof shall be received and accounted for by the Treasurer, or in case of collection on his bond, by the recipient thereof, to the State Treasurer, and be deposited in the bank or banks aforesaid, applied for the legitimate uses of said Board, or as herein elsewhere provided.

§ 8. Any sanitary commissioner of said Board who shall accept or hold any political or municipal office during his term of office, or shall be publicly nominated for any office elective by the people, and shall not, within ten days succeeding his knowledge thereof, publicly decline the said nomination, shall, in either case, be deemed thereby to have vacated his membership of said Board, and the vacancy so created shall be filled as is provided as to other vacancies; but membership of this Board shall not affect membership in the Board of Police or the office of Health officer.

Hold no other office.

§ 9. Any member of the said Board may, at any time, be removed from office by the Governor, under the provisions of the laws relative to the removal of sheriffs from office, which provisions are hereby extended so as to relate to the members of said Board; but before such removal, such member shall be served with specific charges, stating the dereliction of duty complained of, and shall be afforded an adequate opportunity to publicly answer the same and to make his defence thereto, upon reasonable notice to be given him; and on the application of the Governor, or the party charged, any judge of the Supreme Court shall have as full power and authority to compel the attendance and examination of witnesses, touching such charges or defence, and the production of books and papers relating thereto, at the place and time where the aforesaid proceedings or hearing may take place, as is given herein in respect to the examination of witnesses, or the production of papers, on the application of said Board, in the fourteenth section of this act. And it shall be the duty of such judge (and of any other judge named in said section) to exercise such authority, and to take or supervise the taking of such examination to be used on the hearing of such charges or defence. And if, by removals or other cause, the members of the Board shall be less than five (but not less than three,) the existing members shall still constitute a Board, competent, by unanimous action to exercise the powers delegated by this act.

Removal of Commissioners.

Powers of Board when less than five.

§ 10. Said Board shall have power to create a chief executive office, and appoint a suitable person to fill such office, who shall be an experienced and skillful physician, resident in said district, whose full name of office shall be, "The Sanitary Superintendent

Sanitary Superintendent.

of the Metropolitan Sanitary district of the State of New York," but he may be designated as "Sanitary Superintendent." It shall be the duty of said officer, as he may be directed, to execute, or cause to be executed, the orders of said Board, and generally, according to its instruction, to exercise a practical supervision in respect to the inspectors, agents and other persons (other than the Secretary, Treasurer and members of the Board, or the members of the police force,) who may exercise any authority under this act; and said officer shall devote his services to the aforesaid purposes as the Board may from time to time direct. He shall be entitled to receive a salary to be fixed by the Board, which shall not exceed five thousand dollars annually.* Such Superintendent shall make reports weekly, or oftener, if directed by the Board, in writing, stating generally his own action and that of his subordinates, and the condition of the public health in said district, and any causes endangering life or health that have come to his knowledge during said period. And said Board may appoint two "Assistant Sanitary Superintendents," one of whom shall be a resident of the city of Brooklyn, and shall principally perform his duties in that city, whose duties shall be of the same nature as those of the last named officer; and their salaries, not to exceed thirty-five hundred dollars a year each, shall be fixed by the Board.†

§ 11. Said Board may appoint and commission such number of "sanitary inspectors" as the Board may deem needful, not exceeding fifteen, and, from time to time prescribe the duties and salaries‡ of each of said inspectors and the place of their performance (and of all other persons exercising any authority under said Board, except as herein specially provided;) but at least ten of such inspectors shall be physicians of skill and of practical professional experience in said district, and the residue thereof shall be selected with reference to their practical knowledge of scientific or sanitary matters, which may especially qualify them for such inspectors. Each of such inspectors shall, twice in each week, make a written report to said Board, stating what duties he has performed and where he has performed them, and also such facts as have come to his knowledge, connected with the purposes of this act as are by him deemed worthy the attention of said Board, or as its regulations may require of him; and such, and the other reports herein elsewhere mentioned, shall be

Salary of Superintendent.

Assistant Superintendents.

Salary of Assistants.

Sanitary Inspectors.

Duties of Inspectors.

Reports preserved.

* Amended, Laws of 1867, Chapter 956, Section 15.

† Amended, Laws of 1867, Chapter 956, Section 15.

‡ Amended, Laws of 1867, Chapter 956, Section 15.

preserved among the records of said Board. The Board may also employ such number of clerks and servants, and fix their salaries, and take such legal advice and employ such attorneys, as may be necessary to the efficient, safe and economical discharge of the duties by this act devolved on said Board. And may also rent, lease, fit up and furnish such offices as the convenience of the Board, its officers, agents and employees, and the prudent and proper discharge of the duties of the Board may require; and may make such incidental and additional expenditures, having due regard to economy, as the purposes and provisions of this act and the dangers to life and public health may justify or require; and may provide that any failure of any officer, agent or employee of the Board to duly fulfill his engagements or discharge his duty, shall cause a forfeiture of the whole or any less portion of the salary or compensation of such officer, agent or employee, as the rules or practice of the Board may provide. And the Board of Police is authorized to allow the Board of Health to occupy a portion of its premises.

Clerks.

Attorneys.

Offices.

Incidental expenses.

Forfeiture of pay.

Offices.

§ 12. * The authority, duty and powers, whether given by any law; or by any ordinance made thereunder heretofore (for the purpose of preserving or protecting life or health, or preventing disease) conferred upon or now belonging to, or being exercised by the board of health, or the board of public health of or in the city of New York, or of or in the city of Brooklyn, or elsewhere in said district, the mayor and common council of either of said cities, the mayor of the city of New York, by and with the advice and consent of the board of aldermen, the president of the board of aldermen, the president of the board of assistant aldermen (or councilmen,) the resident physician, the health commissioner, the mayor and the commissioners of health, the commissioners of health, the city inspector, (or the city inspector's department) of either of said cities; or conferred upon or now belonging to any two or more of the said bodies or officers, or last named boards or departments, or to any board of health or health officer or agent in said district, or exercised by any officer or person appointed by or deriving authority from any one or more of the bodies, officers, departments or last named boards (so far as said powers and authority can be exercised and such duty performed by the board hereby created, without interference with the proper discharge of the duties, other than sanitary duties, heretofore imposed upon the board of metropolitan

Board to have powers heretofore exercised by other boards and officers.

* Amended, Laws of 1866, Chapter 686, Sec. 8.

police), are hereby exclusively conferred upon, and shall hereafter be exclusively exercised by the aforesaid "The Metropolitan Board of Health;" the members and officers thereof, as herein provided; and the same are to be exercised as herein set forth, (and to such an extent and in such place and manner as said Board may provide,) for the greater protection and security of health and life in said district, and the appropriate parts thereof; and after this act goes into effect no salary or compensation shall be paid to any officer, board or agent, or in respect to any service, expenditure or employment under the authority of any health law, ordinance, regulation, or appointment of or in said cities, or any part of said district, unless such salary, expenditure or employment shall be authorized by the Board hereby created and contemplated by the provisions of this act.* And the aforesaid power, duty and authority hereby transferred to and conferred upon said Board shall be held to include all the power, duty and authority given, or conferred or purporting to be given or to be conferred to or upon any person, officer or board, in or by any ordinance contained or purporting to be contained in the first ten chapters of ordinances, being numbered from one to ten inclusive in a compilation of "Laws and Ordinances relative to the Preservation of the Public Health in the city of New York," and purporting to be published under the authority and by the direction of the Mayor and Commissioners of Health of said city, in the year one thousand eight hundred and sixty, and by any existing amendments and additions thereto. But no fees of any kind shall be charged for the performance of any duties imposed by said ordinances. And said board shall also possess (and may exercise by its own agents, or by order to be executed by said board of police,) throughout said district, all the power and authority for the protection of life or health, or the care or preservation of health, or persons diseased or threatened therewith, conferred by any law or ordinance relating to any part of said district, and especially by the act of the seventeenth of April, eighteen hundred and fifty-four (being the three hundred and eighty-fourth chapter of the laws of eighteen hundred and fifty-four,) upon the Mayor, Common Council, Board of Health, or the Health Officers, (or upon any two or more of them, or other officers) in said act mentioned. But the powers and authority in this section given shall not be held to interfere with the powers and duties of the Croton Aqueduct Board, Street Commissioner,

How to be exercised.

Cities to pay no salaries.

Power conferred by certain Ordinances of New York, transferred to Board.

No fees.

Powers given by Brooklyn charter transferred to Board.

What boards not to be affected.

* Amended, Laws of 1866, Chapter 686, Section 8.

Superintendent of Unsafe Buildings, Comptroller of New York city, or the board authorized to contract for street cleaning (under the law of eighteen hundred and sixty-five;) nor shall anything in the aforesaid laws or ordinances contained be construed as a limitation of any power in this bill elsewhere given to the said board, or to limit the penalties and expenses it may enforce or collect; and all the power recited or given by said ordinances shall belong wholly to said board, who may exercise the same without the advice, assent or co-operation of any municipal board or officer, and in any manner not inconsistent with the other sections of this law, without being limited to the means or by the procedure in said ordinances stated. And no municipal body or other authority in said district shall hereafter create or employ any officer or agent, or incur any expense, under any of said (or other) health laws or ordinances, or in any respect of any matter concerning which said board is by this act given control or jurisdiction. All the aforesaid powers are to be possessed and exercised as fully as if herein repeated and separately conferred upon said board.

Municipal authority not to interfere.

Nor appoint officers or incur expense.

§ 13. Said Board shall possess all the authority and be charged with all the duties conferred or imposed on the City Inspector of the City of New York, by the act passed on the second day of April, one thousand eight hundred and fifty-three, or by any and all acts relative to births, deaths or marriages; and the duty of all persons and officers in any such (or any aforesaid) acts mentioned shall hereafter be the same, in respect to said Board, as if said law or laws had contained the name of said Board instead of that of the City Inspector of the City of New York (or other officer,) and said acts are hereby extended throughout said district;* but the powers now possessed by the City Inspector with reference to the inspection of weights and measures, are hereby conferred upon the Mayor of the City of New York. And it shall be the duty of said Inspector, and of whoever may have possession or control thereof, to transfer and deliver to said Board all public books, records, statistics and papers in his or their possession, or under his or their official or personal control, and to give such information to said Board as he or his department may possess relative to any matter in this section, or in either of said last mentioned laws referred to, and his authority and duty under said laws shall cease when this act goes into effect, and the Justices of the Supreme Court shall

Births, deaths and marriages.

Weights and Measures.

City Inspector to deliver books, &c.

* Amended, Laws of 1867, Chapter 956, Section 11.

No fees to be demanded.

Duty to report births and deaths.

Penalty for omission.

What Board may order done.

Declare nuisance.

have jurisdiction to enforce this provision by mandamus. And said Board shall perform all the duties by this section imposed, as a part of its regular duties, and no fees shall be demanded or received by reason thereof or anything in said act or acts contained. It shall be the duty of the next of kin of any person deceased, and of each person being with such deceased person at his or her death, and of the person occupying or living in any house or premises in or on which any person may die, and of the parents of any child born in said district, (and if there be no parent alive that has made such report, then of the next of kin of such child born,) and of every person present at such birth, within five days after such birth or death, to report to said Board in writing, so far as known, the date, ward and street number of said birth, and the sex and color of such child born, and the names of the parents, and the age, color, nativity, last occupation and cause of death of such deceased person, and the ward and street, and place of such person's death and last residence. And for every omission of any person to make and keep the registry required by the acts referred to in this section, and for every omission to report a written copy of the same to said Board within ten days after any birth or marriage provided to be registered, and for every omission by any person to make the report of any death or birth, with the particulars as herein required, any person guilty of said omission shall be liable to pay a fine of ten dollars, which may be sued for and recovered in the name of said Board, for the benefit of said Board. But no person shall be liable for such fine for not making the report herein required, if he or she shall prove that such report had been made to the Board by some other person before suit brought for such penalty, or that he or she was ignorant of such birth or death.*

§ 14. *First*—Whenever any building, erection, excavation, premises, business pursuit, matter or thing, or the sewerage, drainage or ventilation thereof, in said district, shall, in the opinion of said Board (whether as a whole or in any particular,) be in a condition or in effect dangerous to life or health, said Board may take and file among its records what it shall regard as sufficient proof to authorize its declaration that the same, to the extent it may specify, is a public nuisance, or dangerous to life or health; and said Board may thereupon enter in its records the same as a nuisance, and order the same to be removed, abated, suspended, altered or otherwise improved or purified, as said or-

* See Laws of 1867, Chapter 956, Section 11.

der shall specify; and shall cause said order, before its execution, to be served on the owner, occupant or tenant thereof, or some of them, which to said Board, may appear most directly interested in its execution, provided said parties, or any of them, are in said district and can be found, and such service can be conveniently made,* and if any party so served, (or intended to be according to this law,) shall, before its execution is commenced, or within three days after such service or attempted service, apply to said Board, or the President thereof, to have said order or its execution stayed or modified, it shall then be the duty of said Board † to temporarily suspend or modify said order or the execution thereof, (save in cases of imminent danger from impending pestilence, when said Board may exercise extraordinary powers, as herein elsewhere specified,) and to give such party or parties together, as the case in the opinion of the Board may require, a reasonable and fair opportunity to be heard before said Board, and to present facts and proofs, (according to the rules or directions of said Board,) against said declaration and the execution of said order, or in favor of its modification, according to the regulations of the Board, ‡ and the Board shall enter in its minutes such facts and proofs as it may receive, and its proceedings on such hearing, and any other proof it may take; and thereafter may rescind, modify or reaffirm its said declaration and order, and require execution of said original, or of a new or modified order to be made, in such form and effect as it may finally determine. ||

Service of orders.

Impending pestilence.

Hearing.

Second.—Said Board may order or cause any excavation, erection, vehicle, vessel, water-craft, room, building, place, sewer, pipe, passage, premises, ground, matter or thing (in said district or adjacent waters) regarded by said Board as in a condition dangerous or detrimental to life or health, to be purified, cleaned, disinfected, altered or improved; and may also order any substance, matter or thing, being or left in any street, alley, water, excavation, building, erection, place or grounds (whether such place where the same may be, be public or private,) and which said Board may regard as dangerous or detrimental to life or health, to be speedily removed to some proper place; and may designate or provide a place to which the same shall be removed, when no such adequate or proper place, in the judgment of said Board, is already provided. The said Board may require the

What Board may order done.

* See Laws of 1867, Chapter 956, Section 5, and Laws of 1867, Chapter 908, Section 9.

† Amended. Laws of 1866, Chapter 686, Section 6.

‡ See Laws of 1867, Chapter 956, Section 12.

|| Amended, Laws of 1866, Chapter 686, Section 6. Laws of 1867, Chapter 956, Section 10.

Police to execute orders.

Health Board may execute its own orders.

§53 and 54 of Act of 25th April, 1864.

Health powers of police transferred to Board of Health.

Service of orders.

Service of order.

said Board of Police to execute any of the orders referred to in this act. It shall be the duty of the Board of Police to execute the orders of the said Board of Health, and the said Board of Police may employ the necessary persons and the means about such execution. Or the said Board of Health, if it shall consider the public health or interests so to require, may execute such orders through its own officers or persons, and means to be engaged by the said Board of Health; and about the execution of the said orders, both the said Board of Police and the said Board of Health shall have, each as well as the authority conferred by this act as all the powers and authority conferred by the fifty-third and fifty-fourth sections of the Metropolitan Police act, passed on the twenty-fifth day of April, eighteen hundred and sixty-four, and of any amendments made to said act or to be made enlarging such authority and all powers and authority possessed and exercised by said Board of Police under said act pertaining to sanitary matters, or in conflict with the objects and purposes of this act, shall hereafter be enjoyed, possessed and exercised by said Board of Health, and the orders of the kind in this section secondly mentioned shall, if the proper person or persons are known to the Board, and can be conveniently found in said district, on whom to make the service, be served upon one or more of the owners, occupants, lessees or tenants of the subject matter to which said order relates, or upon one or more of the persons whose duty it was to have done what is therein required to be done, as the case may render just and proper in the opinion of said Board;* and if said order is not complied with, or as far complied with as the Board may regard as reasonable, within five days after such service or attempted service, or within any shorter time which, in case of pestilence, the Board may have designated, or is not thereafter speedily and fully executed, then any such order may be executed as herein elsewhere provided in regard to any of the orders of said Board. And if personal service of any aforesaid order cannot be made under this section by reason of absence from said district, or inability to find such persons therein, to be shown by the official certificates of the officer having such order to serve, then service may be made through the mail, or by a copy left at the residence or place of business of the person sought to be served, with a person of suitable age and discretion, and the expenses attending the execution of any and all such orders respectively shall be a several and joint

* Amended, Laws of 1867, Chapter 956, Section 5; Chapter 908, Section 9.

personal charge against each of the owners or part owners, and each of the lessees and occupants of the building, business, place, property, matter or thing to which said order relates, and in respect of which said expenses were incurred;* and also against every person or body who was by law or contract bound to do that in regard to such business, place, street, property, matter or thing which said order requires, and said expenses shall also be a lien on all rent and compensation due, or to grow due, for the use any place, room, building, premises, matter or thing to which said order relates, and in respect of which said expenses were incurred; and also from the time of filing, as aforesaid, † a lien on all compensation due or to grow due for the cleaning of any street, place, ground or thing, or for the cleansing (or removal) of any matter, thing or place, the failure to do which by the party bound so to do, or the doing of the same in whole or in part by order of said Board, was the cause or occasion of any such order or expense.‡ Said Board of Health, its assignee, or the party who has under its order, or that of the Board of Police, acting thereunder, incurred said expense, or has rendered service for which payment is due, and as the rules of said Board of Health may provide, may institute and maintain a suit against any one herein declared liable for expenses as aforesaid, or against any person, firm or corporation owing, or who may owe such rent or compensation, and may recover the expenses so incurred under any order aforesaid.¶ And only one or more of such parties liable or interested may be made parties to such action as the Board may elect; but the parties made responsible as aforesaid for such expenses shall be liable to contribute or to make payment as between themselves, in respect of such expenses and of any sum recovered for such expenses or compensation, or by any party paid on account thereof, according to the legal or equitable obligation existing between them. And it is hereby declared to be the duty of every owner and part owner and person interested, and of every lessee, tenant and occupant of, or in any place, water, ground, room, stall, apartment, building, erection, vessel, vehicle, matter and thing in said district, and of every person conducting or interested in business therein or thereat, and of every person who has undertaken to clean any place, ground or street therein, and of every person, public officer and Board having charge of any ground, place, building or erection therein, to

Expenses a charge.

Expenses a lien on rent and compensation.

Action by assignee.

Parties to suit.

Every body's duty to clean, drain, &c

* See Laws of 1867, Chapter 956, Section 13.

† Amended, Laws of 1866, Chapter 686, Section 5.

‡ See Laws of 1867, Chapter 956, Section 13.

¶ See Laws of 1867, Chapter 956, Section 13.

Authority of Board to be presumed.

Arrests by Inspectors, &c.

Arrests ordered by Board.

Proof, by whom taken.

Officers may administer oaths.

Judge may order examination.

keep, place and preserve the same, and every part, and the sewerage, drainage and ventilation thereof, in such condition, and to conduct the same in such manner that it shall not be dangerous or prejudicial to life or health. And in any suit in this action, or elsewhere in this act, authorized to be brought, the right of said Board or the Board of Police to make any order or cause the execution thereof, shall be presumed. Any member of the police force, and every inspector or officer of said Board of Health, as the regulations of either of said boards may respectively provide relative to its own subordinates, may arrest any person who shall in view of such member or officer, violate, or do or be engaged in doing, or committing in said district any act or thing forbidden by this act, or by any law or ordinance, the authority conferred by which is given to said Board of Health, or who shall in such presence, resist, or be engaged in resisting the enforcement of any of said orders of said Board, or of the Board of Police pursuant thereto. And any person so arrested shall be thereafter treated and disposed of as any other person duly arrested for a misdemeanor. And said Board of Health, having first entered on its minutes, or filed in its records, what it may regard as adequate proof of a violation or resistance by any person in said district, of any such law, ordinance or order, may order (by its warrant, under its seal and attested by the signature of its president and secretary, and indicating, as far as conveniently practicable, the time, place and nature of the offence committed) the arrest of any such person, and such order of arrest shall be of the same effect and shall be executed as a warrant from a justice or judge, duly issued; and the party arrested shall be taken before a magistrate, and thereupon and thereafter shall by all officers, be treated as being and have the rights and liability of a party under arrest by order of the proper officer or tribunal, for a misdemeanor of the nature indicated in the said order of arrest. Proofs, affidavits and examinations as to any matter under this act may be taken by or before one or more members of the Board, or other person, as the Board shall authorize; and the secretary, the sanitary and assistant superintendents, and any member of said Board shall, severally, have authority to administer oaths in such matters, and any person guilty of wilfully testifying falsely shall incur all the pains and penalties of perjury. Any judge of the Supreme Court of any judicial district, wholly or partly within said sanitary district, or who is holding court or chambers therein, upon the written application of said Board or its president, to be made by or through its attorney or counsel,

may issue his order by him subscribed, for the examination without unreasonable delay by or before such justice, of any person or persons, and the production of books and papers, or the inspection and taking of copies of the whole or parts thereof, at a time and place within said district, and in said order to be named; and it shall be the duty of such justice to take or superintend such examination, which shall be under oath, and shall be signed by the party or parties examined and be certified by said judge, and with any copies of books or papers be delivered to said Board or its secretary, for the use of said Board. And such examination, and any proceeding connected therewith or under said order, may wholly or in part be had, conducted or continued by or before any other of said judges, as well as that one thereof who made said order; and in and about the same, every such judge shall have as full power and authority to punish for contempt, and enforce obedience to his said or other order or directions respecting the matter aforesaid (or that of any other judge,) as any such judge or the Supreme Court may now have or shall possess to enforce obedience or punish contempt in any case or matter whatever. Such application shall name or describe the person or persons whose examination is sought (and so far as possible the books or papers desired to be inspected,) and the matters or points affecting life or health in said district as to which said board requests the same to take place, and the judge shall, on the proceedings, decide what questions are pertinent and allowable in respect thereto, and shall require the same to be properly answered; but no answer of any person so examined shall be used in any criminal proceeding. Service of any order of any such judge may be made, and the same proved in the same manner as the service of either an injunction or of a subpoena may now be made or proved. And it shall be the duty of all said judges to facilitate the early determination of the aforesaid proceedings.

How conducted

And enforced.

What application to contain

How judge's order served

§ 15. It shall be the duty of said Board to give all information that may be reasonably requested concerning any threatened danger to the public health, to the Health Officer of the port of New York, and to the Commissioners of Quarantine of said port, who shall give the like information to said Board; and said Board and said Officer and said Quarantine Commissioners shall, so far as legal and practicable, co-operate together to prevent the spread of disease, and for the protection of life, and for the promotion of health, within the sphere of their respective duties;

Board to give and receive information.

Powers of Health Officer and Quarantine Commissioners reserved.

Board to ascertain and prevent disease.

To inform and be informed by such boards.

Vaccination and medical relief.

When pestilence impending to take extraordinary measures.

Six members to concur.

Police to report danger to health.

And violations of ordinances.

and the authority and power of said Health Officer and Quarantine Commissioners is not by this act affected, save as last aforesaid, anything herein elsewhere to the contrary notwithstanding.

§ 16. And said Board shall use all reasonable means for ascertaining the existence and cause of disease or peril to life or health, and for averting the same throughout said district; and shall promptly cause all proper information, in possession of said Board to be sent to the local health authorities of any city, village or town in this State which may request the same, and shall add thereto such useful suggestions as the experience of said Board may supply. And it is hereby made the duty of said health authorities to supply the like information and suggestions to said Metropolitan Board of Health. And said Board may take measures, and supply agents, and afford inducements and facilities for general and gratuitous vaccination and disinfection, and may afford medical relief to and among the poor of said district, as in its opinion the protection of the public health may require, and may remove or cause to be removed to a proper place within said district, to be by them designated, any person sick with small pox or other contagious disease.* And in the presence of great and imminent peril to the public health in said district, by reason of impending pestilence, it shall be the duty of said Board to take such measures and to do and order, and cause to be done, such acts and make such expenditures (beyond those duly estimated for or provided) for the preservation of the public health (though not herein elsewhere or otherwise authorized) as it may in good faith declare the public safety and health to demand, and the Governor of the State shall also in writing approve.

But the exercise of this extraordinary power shall also, so far as it involves such excessive expenditures, require the written assent of at least six members of the Board. And such peril shall not be deemed to exist except when, and for such period of time, as the Governor of the State, together with said Board, shall declare by proclamation the same to exist or continue.

§ 17. It shall be the duty of said Metropolitan Police Board (and of its officers and men, as the last named Board shall direct) to promptly advise said Metropolitan Board of Health of all threatened danger to human life or health, and of all matters thought to demand its attention, and to regularly report to said Board of Health all violations of its rules and of said ordinances and of the health laws, and all useful sanitary information.† And

*Amended, Laws of 1867, Chapter 956, Section 3.

† Amended, Laws of 1867, Chapter 956, Section 2.

said last named Boards shall, so far as practicable and appropriate, co-operate for the promotion of the public health and the safety of human life in said district. And it shall be the duty of said Metropolitan Police Board, by and through its proper officers, agents and men, to faithfully and at the proper time enforce and execute the sanitary rules and regulations, and the orders of said Board of Health (made pursuant to the power of said Board of Health,) upon the same being received in writing and duly authenticated, as said Board of Health may direct. And said Police Board is authorized to employ and use the appropriate persons and means, and to make the necessary and appropriate expenditures for the execution and enforcement of said rules, orders and regulations, and such expenditures so far as the same may not be refunded or compensated by the means herein elsewhere provided, shall be paid as the other expenses of said Board of Health are paid. And in and about the execution of any order of the Board of Health or of the Board of Police made pursuant thereto, police officers and policemen shall have as ample power and authority as when obeying any order of or law applicable to the Police Board, or as if acting under a special warrant of a justice or judge, duly issued, but for their conduct they shall be responsible to the Board of Police and not to the Board of Health.

Police to execute orders.

Police to employ persons, &c.

Authority as under special warrant.

§ 18. It shall be the duty of said Board, so far as it may be able without serious expense, to gather and preserve such information and facts relating to deaths, disease and health, from other parts of this State, but especially in said district, as may be useful in the discharge of its duties, and contribute to the promotion of the health or the security of life in the State of New York. And it shall be the duty of all health officers and boards of health in the State to communicate to said Metropolitan Board of Health copies of their reports, and also such sanitary information as may be useful in said district. And said Board shall keep records of its acts and proceedings as a Board, and of the execution of its orders, so far as reasonably practicable.

Facts as to deaths, &c.

Sanitary reports to be communicated to Board.

Records kept.

§ 19. It shall be the duty of said Board, on or before the first Monday of December in each year, to make a report in writing to the Governor of this State, upon the sanitary condition and prospects of said district; and such reports shall set forth generally the statistics of births, deaths and marriages, the action of said Board and of its officers and agents, and the names thereof for the past year, and may contain other useful information, and

Annual report.

What to contain.

shall suggest any further legislative action or precautions deemed proper for the better protection of life and health, as well in other parts of the State as especially in said district. Such annual report may contain the sanitary rules and by-laws adopted by the Board hereby created. And the annual report of said Board shall also contain a detailed statement, under the oath of the treasurer, of all money received and paid out by said Board, or its treasurer, and a detailed statement of the manner of its expenditure during the year last past, and of the funds on hand. Said Board may annually have, not exceeding one thousand copies of said report, printed in an economical form, at the expense of said Board, and may distribute the same as shall be best adapted to promote the purposes of this law; but a copy of said report shall be sent to each duly organized Board of Health in the State of New York which may have requested such copy, and shall have furnished said Board with a copy of its own annual report.

May print report.

By-Laws, &c.

§ 20.* Said Board may enact such by-laws, rules and regulations as it may deem advisable, in harmony with the provisions and purposes of this act, and not inconsistent with the constitution or laws of this State, for the regulation of the action of said Board, its officers and agents, in the discharge of its and their duties, and for the protection of life and public health; and from time to time may alter, annul or amend the same. And said Board shall, in like manner, before said rules and ordinances take effect, and for more fully carrying into effect the intents and purposes of this act, annually, on or before the tenth day of May in any year, make and publish the same twice a week for three successive weeks next thereafter, in two daily newspapers published in the city of New York, and in one daily newspaper published in the city of Brooklyn, a "code of health ordinances" for the protection of the public health in said district, to take effect on and after the first day of June next thereafter following, and to remain in full virtue, force and effect within said district for the term of one year, unless annulled; † and all courts and tribunals, or any judge or justice thereof, shall take cognizance of and give effect to said ordinances and the several parts thereof, and may enforce such ordinances by a penalty not exceeding fifty dollars for each offence, recoverable in any justice's or district court, with costs; but nothing in this section contained shall be construed as in any manner limiting any powers herein elsewhere contained. ‡

Publish By-Laws.

Code of health.

Penalty.

* Amended, Laws of 1866, Chapter 686, Section 1.

† Amended, Laws of 1866, Chapter 687, Section 1; Laws of 1867, Chapter 956, Section 10.

‡ Amended, Laws of 1866, Chapter 686, Section 1; Laws of 1867, Chapter 956, Section 10.

§ 21. Said Board shall cause to be kept a general complaint book, or several such books, in which may be entered by any person, in good faith, any complaints of a sanitary nature which such person thinks may be useful, with the name and residence of the complainant, and may give the name of the person or persons complained of, and the date of the entry of the complaint, and such suggestions of any remedy as may in good faith be thought appropriate, and said books shall be open to all reasonable public examination as the Board may authorize; and the Board shall cause the facts in regard to such complaints to be investigated, and the appropriate remedy to be applied.

Complaint
book.

Complaint to be
investigated.

§ 22. Said Board may, from time to time, engage a suitable person or persons to render sanitary engineering service, and to make or supervise practical and scientific sanitary investigations and examinations in said district requiring engineering skill, and to prepare plans and reports relative thereto. And it is hereby made the duty of all boards, officers and agents having the control, charge or custody of any public structure, work, ground or erection, or of any plan, description, outline, drawing or charts thereof, or relating thereto, made, kept or controlled under any public authority, to permit and facilitate the examination and inspection, and the making of copies of the same by any officer or person thereto by said Board authorized; and the members of said Board, the sanitary superintendent or assistant aforesaid, any of the aforesaid sanitary inspectors, and such other officer or person as may at any time be by said Board authorized, may, without fee or hindrance, enter, examine and survey all grounds, erections, vehicles, structures, apartments, buildings and places in said district, including vessels of all kinds in the adjacent waters, and all cellars, sewers, passages and excavations of every sort, and inspect the safety and sanitary condition and make plans, drawings and descriptions thereof, according to the order or regulations of said Board. Said Board may make and publish a report of the sanitary condition, and the result of the inspection of any place, matter or thing in said district so inspected, or otherwise as aforesaid, so far, as in the opinion of said Board, such publication may be useful. And said Board may provide a badge of metal, with a suitable inscription thereon, and direct and require it to be worn, in a position to be designated, by any person or officer under the authority of said Board, at such times and under such circumstances as the rules or by-laws of said Board shall direct. It shall be a misdemeanor, punishable by

Engineering
service.

Inspection of
charts, &c., to be
permitted.

Right to enter
and inspect.

Make sanitary
condition
public.

Badge.

False representation or personation.

imprisonment in the county jail, or, in the city and county of New York, in the penitentiary, for not less than one year nor exceeding two years, or by a fine of not less than two hundred and fifty dollars, for any person, not an officer under this act, to falsely represent himself as such, with a fraudulent design upon persons or property, or to have, use, wear or display, without authority, any shield, or other insignia or emblem such as is worn by such officer. But no more than five thousand dollars in any one year shall be expended for sanitary engineering service.

Regular and special meetings.

§ 23. Said Board shall hold regular and special meetings as frequently as the proper and efficient discharge of its duties shall require; the same to be held (unless it shall be impracticable so to do, or shall be, for good reasons, otherwise ordered,) at the regular office of said Board in the city of New York; and the rules or by-laws shall provide for the giving of proper notice of all such meetings to the members of the Board. And all meetings shall in every suit and proceeding be taken to have been duly called and regularly held, and all orders and proceedings to have been duly authorized, unless the contrary be proved.

Meetings and orders presumed authorized.

Board to enforce Health Laws.

§ 24. It shall be the duty of said Board of Health to aid in the enforcement of, and so far as practicable to enforce all laws of this State, applicable in said district, to the preservation of human life, or to the care, promotion, or protection of health; and said Board may exercise the authority given by said laws to enable it to discharge the duty hereby imposed; and this section is intended to include all laws relative to cleanliness, and to the use or sale of poisonous, unwholesome, deleterious or adulterated drugs, medicine or food. And said Board is authorized to require reports and information (at such times and of such facts, and generally of such nature and extent, relating to the safety of life and promotion of health as its by-laws or rules may provide), from all public dispensaries, hospitals, asylums, infirmaries, prisons and schools, and from the managers, principals and officers thereof; and from all other public institutions, their officers and managers, and from the proprietors, managers, lessees, and occupants of all theatres and other places of public resort or amusements in said district; but such reports and information shall only be required concerning matters or particulars in respect of which it may, in its opinion, need information, for the better discharge of its duties in said district. And it is hereby made the duty of the officers, institutions and persons so called on, or referred to, to promptly give such information and make

What included.

Boards may require reports from institutions, asylums, &c.

such reports, verbally, or in writing, as may be required by said boards. And it is hereby further made the duty of all persons, officers and boards to make to said Board of Health the reports and returns, and to give the information and afford to said Board the aid and facilities which by law or ordinance they or any of them were required to make, afford or give to any person, officer or board, when any powers hereby conferred on said Board of Health were exercised by any other officer or board.

Board to be aided.

§ 25. Such Board shall not be required to make any return or report, or give any information or advice, or do any act which, under the former administration of the health laws in said district, was made necessary or appropriate by reason of the various officers, boards or agents by or through which said laws were executed or administered, or the powers hereby conferred were exercised; and said Board may establish reasonable regulations as to the publicity of its records and proceedings; and may publish such information as may, in its opinion, be useful, concerning births, deaths, marriages, sickness, and the general sanitary condition of said district, on any matter, place or thing therein.

Returns not required of Board.

Regulations as to records.

May publish information.

§ 26. The department known as the "City Inspector's Department," and every bureau thereof, and so much of the twenty-seventh section of the four hundred and forty-sixth chapter of the laws of eighteen hundred and fifty-seven, as relate thereto, and each and every office in the said district relating to public health, or the duties of which are conferred on said Board, except the Health Officer of the port of New York and the Board of Quarantine Commissioners and its officers, are hereby abolished. And no salary or compensation shall be due or paid by any officer or board whatever, to any officer or agent or board in said district for services to be rendered after this act goes into effect, under any law or ordinance concerning life or public health, except under this act and as authorized by the board hereby created. And all other boards and officers now existing in said district under or by virtue of any law or ordinance relating to public health, are hereby also abolished; and no compensation shall be paid to or in respect of the same for any service rendered after this law shall go into effect, save as said Board of Health shall authorize.

City Inspector's Department and all health offices abolished.

Salaries of Health Officers not to be paid.

§ 27. All the sums of money provided or raised for meeting the expenses, compensations and payments provided by this act, or that may be authorized by said Board (except penalties or other sums received and amounts collected by suit as herein pro-

Funds of Board.

vided,) shall be paid into the treasury of the State, and shall constitute a fund, to be so far as needed, used by said Board in the performance of its duties and discharge of its obligations; and may and shall be paid therefrom, on the order of the treasurer of said Board, as said Board may direct, and shall be applied and paid by the treasurer of said Board only as this act and the regulations of said Board may authorize. And unless this Board shall otherwise specially provide, all salaries and compensation for services and expense shall, so far as practicable, be paid quarterly. And any member or officer of said Board may, if a judge shall so order, be summarily examined upon an order (to be made on application and written affidavit on the oath of three freeholders of said district) requiring such examination, and signed by any justice of the supreme court of the first judicial district, and directing such examination to be publicly made, at the chambers of said justice, at a day and hour to be named, not less than forty-eight hours after personal service of said order, and such examination shall be confined to an inquiry into any alleged wrongful diversion or misapplication of any of said moneys or fund, or any other delinquency charged in said affidavit, touching their office or the discharge or neglect of duty of which it is alleged, in the application for said order, that such member of said Board or said officer has knowledge or information. And such member or officer shall answer such pertinent questions relative thereto as the judge shall direct, and the examination may be continued from time to time as such judge may order, but the answers of the party charged shall not be used against him on any criminal proceeding. The proceedings may be continued before any other judge in said district, and other witnesses, as well as the parties making such application, may, in the discretion of such judge, be compelled to attend and be examined touching such alleged delinquency; and such judge may punish any refusal to attend such examination or to answer any questions pursuant to his order as for and being a contempt of court. And such examination, affidavit and orders shall be filed in the office of the County Clerk of the county of New York. And in regard to this last examination and matters therewith connected, any such judge shall have all the powers and authority conferred in respect to the examination or proceedings mentioned in the fourteenth section hereof, as if herein repeated.

§ 28. The Mayor and Comptroller of the city of New York, and the Mayor and Comptroller of the city of Brooklyn, togeth-

Salaries when payable.

Commissioners may be examined.

How examination conducted.

Board of Estimate.

er with the members of said Board, created by this act, shall, on reasonable notice from said Board, convene at the office of said Board of Health, as a Board of Estimate, a majority of whom shall form a quorum, and shall annually, on or before the first day of August, make up a financial estimate and statement, including all sums and expenses in arrear, and also any sum borrowed, as herein elsewhere provided for, of the sums required for the year, commencing on the first day of January ensuing, annually (above any sums on hand), for the expenses and proper support, and for the discharge of the duties of said Board, including the proper expenses and disbursements of said Board, and of the members or officers thereof in the discharge of their official duties, and for such other general or incidental expenses as may from time to time, in the judgment of such Board of Estimate, become necessary, with the enumeration thereof. But the sums raised for the expenses of any year shall not exceed one hundred thousand dollars in amount, independently of such sums as may have been expended in the presence of great and imminent peril to the public health in said district by reason of impending pestilence, and independently of the sums herein elsewhere provided, to be paid by or recovered back from any person or corporation.* And the expenses for the remainder of the current year after the passage of this act, to be reckoned at the said rate of one hundred thousand dollars a year, independently of said extraordinary expenses, and of said sums to be paid or recovered back, shall be estimated and apportioned to the several cities, counties and towns in said district as hereinafter provided, and collected in the next annual tax levies. Such estimate shall be accompanied by a written apportionment, made by said Board of Estimate, of the proportions of expenses applicable to and to be paid by each county, city and town in said district. And in apportioning the salaries of the members of the Board, its officers, agents and employees, the following rules shall be observed:

When to meet.

Limitation of amount.

Mode of apportionment.

1. The salaries and compensation of all members of the board appointed to this board, other than the health officer, from any county, and of all officers, agents and employees thereof, whose principal sphere of duty shall be in any county, shall be apportioned against and paid by such county.

2. The salary of the Health Officer, and all general, office,

* Amended Laws of 1867, Chapter 95f, Section 15.

contingent and other expenses of the board, not included in the first class aforesaid, shall be apportioned against and paid by the respective counties and towns (or counties to which they belong) in the ratio of the taxable property, real and personal, of each, in said district, according to the assessment under which the last preceding taxes therein were respectively levied.

3. But no apportionment against any county (or town therein), other than the counties of New York and Kings, shall be made under the two foregoing clauses, unless as follows, that is to say: Each other county (and each of said towns) shall have apportioned against it and shall pay all disbursements and expenses arising, caused or ordered therein, to or by said Board, or for salaries, and services, or portions thereof, earned or rendered therein, as the regulations of said Board may provide; but such salaries and services will not include any portion of the salaries of the members of the board or of its general officers.

4. It is further provided, in respect of each of said counties, that all the expenses caused by any act or any order of said board, or the execution thereof in or for any particular county or part thereof, shall be apportioned to and be paid by said county or part thereof; and any sums collected in either shall be credited to such county or part thereof, unless the same was on account of expenses incurred in some other county, city or town, and in that event it shall be credited thereto. The said estimate and statement shall, at least ten days before the first day of September in each year, be submitted to the committee of revision, composed of the presidents of the boards of supervisors of the counties of New York, Kings, Westchester and Richmond, and of the presidents of the board of aldermen of the city of Brooklyn, and of the supervisors of the respective towns of Newtown, Flushing and Jamaica, in the county of Queens, who may meet, by a majority thereof, and consider and act upon the said estimate and enumeration on or before the first Monday of September in each year. If the said committee of revision, on or before the second Monday of said September, shall object in writing to such estimate or apportionment, or any portion thereof, and so in writing, by said date, notify, or cause to be notified, the said board of estimate, it shall be the duty of the latter to immediately and carefully revise the same, and consider the said objections. If such committee shall fail to meet, or if said board of estimate shall adhere to their original action and esti-

Committee of
revision.

If committee of
revision object.

mate, or if they shall modify the same, but they shall not increase the same, then their final determination, apportionment and action shall be binding and conclusive upon all concerned.

If fail to meet or adhere to be conclusive.

And the board of supervisors of the counties of New York, Kings, Richmond and Queens (the expenses in the last-named county to be charged and collected in, and in respect of the property of the towns of Newtown, Flushing and Jamaica), respectively,* are empowered and directed, annually, to order and cause to be raised and collected, by tax upon the estates, real and personal, subject to taxation according to law, within the said respective counties and towns, their respective proportions of the sums of money as aforesaid, annually estimated and as apportioned and finally determined upon, as said total expenses and estimate aforesaid. The sums of money so respectively raised, as provided for in this act, shall be, by the proper officers, immediately and without deduction, paid into the Treasury of the State, and shall constitute the separate fund herein elsewhere mentioned and provided, and be used only for the purposes of said Board, and shall be paid from the State Treasury, under such appropriate regulations as shall be agreed upon between the Comptroller of the State, the State Treasurer and the Treasurer of said Board.

Money to be raised in respective counties and towns.

Disposition of money.

§ 29. The said Board may borrow on the credit of this act, and of the funds to be raised thereunder, such amounts (the borrowing of the same respectively to be first approved in writing by the Governor of the State) as may, in the opinion of said Board, be reasonably necessary and proper to enable it to discharge its duties and defray its expenses hereby authorized, up to the time when the requisite funds can be realized for said Board and purposes from the taxation and sources herein provided for and authorized; and such moneys so borrowed, with legal interest, shall be a charge upon and shall be repaid by the said counties and cities and towns in the proportion hereinbefore provided, and the amounts thereof shall, in addition to the requisite annual expense to secure a future annual fund, be included or allowed in the next or first annual estimate of the sums required and expenses as aforesaid, and shall, with interest, be included, and the amount, with interest, collected in and with the tax in this act provided for, and the same shall go into the said fund, and shall from thence, by the Treasurer of the Board, be paid to or in favor of the parties entitled. And said Board may issue its certificates to those of whom it borrows money, as herein authorized,

Board may borrow.

Certificates for money borrowed.

* Westchester added, Laws of 1867, Chapter 956, Section 4.

under its seal, and signed by its President and Secretary, and bearing interest at the rate of not more than seven per cent., and payable at a time not more than eighteen months from the date at which any sum may have been borrowed.*

Penalty for violations, &c.

§ 30.† Whoever shall violate any provisions of this act, or any order of said Board, made under the authority of the same, or of any by-law or ordinance therein referred to, or shall obstruct or interfere with any person in the execution of any order of said Board, or any order of the Board of Police, in pursuance or execution of the order of the Board of Health, or wilfully omit to obey any such order, shall be guilty of a misdemeanor and be

Misdemeanor.

liable to be indicted and punished for such offence: and in cases where it was made a misdemeanor to do or omit any act or thing, when any power or authority hereby conferred upon this Board were exercised by any other board or officer or officers, the omission or doing of such, or a corresponding act or thing, which this act requires, or contemplates to be done or forbids, shall in like manner be a misdemeanor, and the offender shall be liable to indictment and punishment for the same. A wilful

Wilful violation

omission or refusal of any individual, corporation or body to conform to any sanitary regulation of said Board duly made for the protection of life, or the care, promotion or preservation of health, pursuant to its power or authority, shall be a misdemeanor, and the person or officers guilty thereof shall be liable to indictment and punishment as for a misdemeanor. And all prosecutions

Before whom trials had.

and proceedings against any person for a misdemeanor under this act may be had or tried before any judge or tribunal having jurisdiction of any misdemeanor within said district, or within the town, city or village within which any such misdemeanor under this act was committed. And any person, corporation or

Pecuniary liability of delinquent.

body which may have wilfully done or omitted any act or thing which is in this act, or any law or ordinance therein referred to, declared to be, or to subject the party guilty thereof to punishment for a misdemeanor, shall, in addition thereto, be subject to a penalty of two hundred and fifty dollars, to be sued for and recovered by said Board in any civil tribunal in said district, except that in the marine, or justice, or county courts, no greater amount can be recovered than the extent of the jurisdiction in other civil suits. And any such suits may be against one or more, or each or all of those who participate in the act, refusals or omissions complained of, and the recovery may be against one

* Amended, Laws of 1867, Chapter 956, Section 10.

† Amended, Laws of 1866, Chapter 686, Section 2.

or more of those joined in the action, as the justice or court shall direct. And the provisions of this section as to jurisdiction of tribunals and costs shall apply to all suits by said Board or its assignees, or the assignees of the Police Board under this act.*

§ 31. Copies of the records of the proceedings of said Board, of its rules, regulations, by-laws and books and papers constituting part of its archives, when authenticated by its secretary or secretary *pro tem.*,† shall be presumptive evidence, and the authentication be taken as presumptively correct in any court of justice or judicial proceeding, when they may be relevant to the point or matter in controversy, of the facts, statements and recitals therein contained; and the action, proceedings, authority and orders of said Board shall at all times be regarded as in their nature judicial, and be treated as *prima facie* just and legal.

Records as evidence.

Action of Board regarded as judicial and legal.

§ 32. It shall be the duty of all prosecuting officers of criminal courts and police justices to act promptly upon all complaints and in all suits or proceedings for any violation of this act, and in all proceedings approved or promoted by said Board, and to bring the same to a speedy hearing or termination, and to render judgment and direct execution therein without delay.

Prosecutions to be prompt.

§ 33. This act, so far as its relates to the appointment of the Sanitary Commissioners provided for therein, shall take effect immediately, and shall, in other respects, go fully into effect on the first day of March, eighteen hundred and sixty-six.

When to take effect.

* See Laws of 1866, Chapter 686, Section 2; Laws of 1867, Chapter 956, Sections 10 and 17.

† Chief Clerk added, Laws of 1867, Chapter 956, Section 1.

CHAPTER 686.

AN ACT to amend an Act entitled "An Act to create a Metropolitan Sanitary District and Board of Health therein, for the Preservation of Life and Health, and to prevent the spread of disease therefrom," passed February 26, 1866. Passed April 19, 1866, three-fifths being present.

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

SECTION 1. Section twenty of an act entitled "An act to create a Metropolitan Sanitary District and Board of Health therein, for the preservation of Life and Health, and to prevent the spread of Disease therefrom," passed February twenty-six, eighteen hundred and sixty-six, is hereby amended so as to read as follows:

By-Laws and
rules.

Code of Health
Ordinances.

Ordinances of
1866.

Penalty for vio-
lation.

§ 20. Said Board may enact such by-laws, rules, and regulations as it may deem advisable, in harmony with the provisions and purposes of this act, and not inconsistent with the constitution or laws of this State, for the regulation of the action of said Board, its officers and agents, in the discharge of its and their duties, and from time to time, may alter, annul or amend the same; and said Board shall, in like manner, for more fully carrying into effect the intents and purposes of this act, annually, on or before the fifth day of May in any year, make and publish twice a week, for three successive weeks next thereafter, in two daily newspapers published in the City of New York, and in one daily newspaper published in the City of Brooklyn, "a code of health ordinances" for the protection of the public health in said district, to take effect on and after the first day of June next thereafter following, and to remain in full virtue, force and effect within said district, until altered, amended, or annulled;* and may at any time alter, amend or annul the same, or any part thereof, upon publishing the same as altered and amended, or such portion as is so altered and amended, and for a like time as said original ordinances: but during the year eighteen hundred and sixty-six such code of health ordinances shall take effect at any time after it shall have been published as aforesaid for two weeks; and every person, body or corporation that shall violate or not conform to any ordinance, rule, sanitary regulation or

* Amended, Laws of 1867, Chapter 956, Section 10.

special or general order of said Board, duly made, shall be liable to pay a penalty not exceeding fifty dollars for each offence, which may be sued for and recovered by and in the name of said Board, with costs, before any justice or tribunal in said district having jurisdiction of civil actions;* and all such justices and tribunals shall take jurisdiction of such actions. And upon the complaint of any citizen of said district against any person for a violation of any rule, sanitary regulation, ordinance or order, made to any police justice or magistrate having jurisdiction in criminal cases, such justice or magistrate shall order the arrest of any person against whom such complaint is made, as in any other case of a criminal offence, and, by his warrant, may require any policeman or constable to make such arrest, and may, after such arrest, proceed summarily to try such person for such alleged offence; but no such trial shall be had on any arrest made in the City of New York without sufficient notice thereof being first given to said Board, or its President. And upon an application in behalf of said Board, made before the trial is commenced, the trial of such person, together with the papers, shall be remitted to the Court of Special Sessions, upon which Court jurisdiction to try such persons is hereby conferred; but the right of any person to elect to be tried before a jury as it may now exist, is not affected by anything herein contained. If such person shall, upon such trial, be found guilty, he or she may be fined in any amount not exceeding twenty-five dollars;† and the payment thereof may be enforced in the same manner as is usual in other cases where fines are imposed. Such fines, when collected, shall be at once paid over to the Treasurer of said Board, to the credit of said Board. Reports of all such trials, and of fines imposed for violations of this act, or of the code of health ordinances hereby authorized, shall be made monthly to said Board by the justice before whom such trial is had. But nothing in this section contained shall be construed as in any manner limiting any powers, penalty and punishment in this act elsewhere conferred.

Arrest on complaint.

Notice of trial.

Remit to Special Sessions.

Amount of fine.

Justices to report.

§ 2. Section thirty of said act is hereby amended so as to read as follows :

§ 30. Whoever shall violate any provisions of this act, or any order of said Board, made under the authority of the same, or any by-law or ordinance therein referred to, or shall obstruct or interfere with any person in the execution of any order of said

Penalty for violations, &c.

* See Laws of 1867, Chapter 956, Section 2.

† See Laws of 1867, Chapter 956, Section 2.

Board, or any order of the Board of Police, in pursuance or execution of the order of the Board of Health, or wilfully omit to obey any such order, shall be guilty of a misdemeanor and be liable to be indicted and punished for such offence, and in cases where it was made a misdemeanor to do or omit any act or thing, when any power or authority hereby conferred upon this Board were exercised by any other board or officer or officers, the omission or doing of such, or a corresponding act or thing, which this act requires, or contemplates to be done or forbids, shall in like manner be a misdemeanor, and the offender shall be liable to indictment and punishment for the same. A wilful omission or refusal of any individual, corporation or body to conform to any regulation of said Board duly made for the protection of life, or the care, promotion, or preservation of health, or the carrying out the purposes of this act pursuant to its power or authority, shall be a misdemeanor, and the person or officers guilty thereof shall be liable to indictment and punishment as for a misdemeanor.* And all prosecutions and proceedings against any person for a misdemeanor under this act may be had or tried before any judge or tribunal having jurisdiction of any misdemeanor within said district, or within the town, city or village within which any such misdemeanor under this act was committed. And any person, corporation or body which may have wilfully done or omitted any act or thing which is in this act, or any law or ordinance therein referred to, declared to be, or to subject the party guilty thereof to punishment for a misdemeanor, shall, in addition thereto, be subject to a penalty of two hundred and fifty dollars, to be sued for and recovered by said Board in any civil tribunal in said district, except that in the marine, or justice, or county courts, no greater amount can be recovered than the extent of the jurisdiction in other civil suits. And any such suits may be against one or more, or each or all of those who participate in the act, refusals or omissions complained of, and the recovery may be against one or more of those joined in the action, as the justice of the court shall direct. And the provisions of this section as to the jurisdiction of tribunals, parties, and costs, shall apply to all suits by said Board or its assignees or the assignees of the Police Board under this act. And said Board of Health may institute and maintain in its own name all such suits and proceedings as shall be reasonable, necessary, and proper for recovering any moneys expended, enforcing the payment of any fine, the punishment for any offence, or in other respects carrying

* See Laws of 1867, Chapter 956, Section 17.

out the objects of this act.* All processes and papers usual or necessary in the commencement and prosecution of actions, or for the collection of money, in suits or proceedings under this act on execution, may be served by any policeman, and in and about such matters, the policeman so engaged shall have all the powers of marshals, and no fees shall be charged by any court, magistrate, or clerk for the issue of any paper or process, or the performance of any duty in suits under this act. Any civil action brought under or by authority of this act, shall be in the name or by the authority of said Board, and may be brought in any court in said district having jurisdiction in any civil action, to an amount as large as is demanded in such action, and if judgment be rendered for the plaintiff in any amount, costs of the court in which such action is brought shall also be recovered without reference to the amount of the recovery, provided payment was demanded before suit brought, and the defendant or defendants in the action against whom the recovery is had, did not, as the code of procedure authorizes, offer to pay an amount equal to the recovery against him or them, except that in cases where the recovery shall be less than fifty dollars, the amount of costs shall be ten dollars, and in case no recovery is had, the plaintiff shall not pay costs, unless the judge or justice at the conclusion of the trial shall certify in writing that there was not reasonable cause for bringing the action, and in such case the costs shall not exceed ten dollars, unless the amount claimed exceeded fifty dollars. No action shall abate or right of action already accrued be abolished by reason of the expiration, repeal, or amendment of any ordinance, code of health ordinances, or regulation of said Board; nor shall any court lose jurisdiction of any action by reason of a plea that title to real estate is involved, provided the defendant is sought by the pleadings, to be charged in said action on any of the grounds mentioned in this act, other than by virtue of ownership of such real estate. In respect to all proofs and proceedings by said Board, or its agents or officers, under this act, papers filed shall be deemed entered upon or in the minutes of the Board.

§ 3. Section twelve of said act is hereby amended so as to read as follows :

§ 12. The authority, duty and powers, whether given by any law, or by any ordinance made thereunder heretofore (for the

By whom
process served.

Court where ac-
tion may be
brought.

Costs.

Actions not to
abate.

Papers filed
deemed entered

Board to have
powers of local
boards and of-
ficers.

* See Laws of 1867, Chapter 956, Section 8.

purpose of preserving or protecting life or health, or preventing disease) conferred upon or now belonging to, or being exercised by the board of health, or the board of public health of or in the city of New York, or of or in the city of Brooklyn, or elsewhere in said district, the mayor and common council of either of said cities, the mayor of the city of New York, by and with the advice and consent of the board of aldermen, the president of the board of aldermen, the president of the board of assistant aldermen (or councilmen), the resident physician, the health commissioner, the mayor and the commissioners, the commissioners of health, the city inspector, (or the city inspector's department), of either of said cities; or conferred upon or now belonging to any two or more of the said bodies or officers, or last named boards or departments, or to any board of health or health officer or agent in said district, or exercised by any officer or person appointed by or deriving authority from any one or more of the bodies, officers, departments, last named boards, (so far as said powers and authority can be exercised and such duty performed by the Board hereby created, without interference with the proper discharge of the duties, other than sanitary duties, heretofore imposed upon the board metropolitan police), are hereby exclusively conferred upon, and shall hereafter be exclusively exercised by the aforesaid "The Metropolitan Board of Health;" the members and officers thereof, as herein provided; and the same are to be exercised as herein set forth (and to such an extent, and in such place and manner as said Board may provide), for the greater protection and security of health and life in said district, and the appropriate parts thereof;* and after this act goes into effect, no salary or compensation shall be paid to, or fees demanded by or expense ordered to be incurred by any officer, board or agent, or in respect to any service, expenditure or employment under the authority of any health law, ordinance, regulation or appointment of or in said cities, or any part of said district, unless such salary, expenditure, employment, fees or expense shall be authorized by the Board hereby created and contemplated by the provisions of this act. And the aforesaid power, duty and authority hereby transferred to and conferred upon said Board shall be held to include all the power, duty and authority given, or conferred, or purporting to be given or to be conferred to or upon any person, officer or board, in or by any ordinance contained or purporting to be contained in the first ten chapters of ordinances, being

Cities to pay no salaries.

Powers given in New York by certain ordinances, conferred upon board.

* See Laws of 1867, Chapter 956, Section 10.

numbered from one to ten inclusive in a compilation of "Laws and Ordinances relative to the Preservation of the Public Health in the City of New York," and purporting to be published under the authority and by the direction of the Mayor and Commissioners of Health of said city, in the year one thousand eight hundred and sixty, and by any existing amendments and additions thereto. But no fees of any kind shall be charged for the performance of any duties imposed by said ordinances. And said Board shall also possess (and may exercise by its own agents, or by order to be executed by said Board of Police), throughout said district, all the power and authority for the protection of life or health, or the care or preservation of health, or persons diseased or threatened therewith, conferred by any law or ordinance relating to any part of said district, and especially by the act of the seventeenth of April, eighteen hundred and fifty-four, (being the three hundred and eighty-fourth chapter of the Laws of eighteen hundred and fifty-four), upon the mayor, common council, board of health, or the health officers, (or upon any two or more of them, or other officers), in said act mentioned. But the powers and authority in this section given shall not be held to interfere with the powers and duties of the Croton Aqueduct Board, Street Commissioner, Superintendent of Unsafe Buildings, Comptroller of New York City, or the Board authorized to contract for street cleaning (under the law of eighteen hundred and sixty-five); nor shall anything in the aforesaid laws or ordinances contained be construed as a limitation of any power in this bill elsewhere given to the said Board or to limit the penalties and expenses it may enforce or collect; and all the power recited or given by said laws or ordinances shall belong wholly to said Board, who may exercise the same without the advice, assent, or co-operation of any municipal board or officer, and in any manner not inconsistent with the other sections of this law, without being limited to the means or by the procedure in said ordinances stated. And no municipal body or other authority in said district shall hereafter create or employ any officer or agent, or incur any expense, under any of said (or other) health laws or ordinances, or in respect of any matter concerning which said Board is by this act given control or jurisdiction. All the aforesaid powers are to be possessed and exercised as fully as if herein repeated and separately conferred upon said Board. And the powers of said Board shall be construed to include the ordering and enforcing, in the same manner as other

No fees.

Local powers extended over district.

Health powers of Brooklyn charter conferred on board.

Certain boards not interfered with.

Municipal authorities not to interfere.

Nor incur expense.

Additional powers.

Repair of build- orders are provided to be enforced, the repairs of buildings, houses, and other structures; the regulation and control of all public markets (so far as relates to the cleanliness, ventilation and drainage thereof, and to the prevention of the sale or offering for sale of improper articles therein;) the removal of any obstruction, matter or thing in or upon the public streets, sidewalks or places,* which shall be in their opinion liable to lead to results detrimental to the public, or dangerous to life or health: the regulation and licensing of scavengers; the prevention of accidents by which life or health may be endangered; and, generally, the abating of all nuisances.

Repair of build-
ings.

Markets.

Obstructions in
the street.

Scavengers.

Accidents.

§ 4. Section five of said act is hereby amended so as to read as follows:

Organize.

President.
Treasurer.
Secretary.

Term of office
of Treasurer and
Secretary.

Salaries.

Salary of Treas-
urer.

Deduction for
failure to attend.

§ 5. Immediately after the four appointed sanitary commissioners shall have taken the oath of office as above provided, they shall meet with the commissioners of the metropolitan police, and the commissioners of metropolitan police with them, and the health officer of the port of New York, and organize as a board of health by electing one of said board to be President, and one of said board to be Treasurer thereof, and by appointing a proper person to be Secretary of said Board. And the successive Presidents of said Board of Health shall be annually elected by the said board from the members thereof, and the successive Treasurers shall be members of said Board; but the Secretary shall not be a member of the Board. The Treasurer and Secretary shall respectively continue in office as such until removed by the election of a successor or otherwise. The said Sanitary Commissioners shall each receive a salary of two thousand five hundred dollars a year; and each Police Commissioner who may be a member of said Board of Health, and the Health Officer, shall as such receive a salary of five hundred dollars a year;† and the member of said Board of Health, who acts as Treasurer, shall receive an additional compensation of five hundred dollars a year for his services as Treasurer. All salaries allowed under this law shall be payable as the Board shall provide. But for every regular or special meeting of said Board which any Sanitary Commissioner or the Secretary shall fail to attend, there shall be deducted from the salary of the person so failing the sum of ten dollars; and for every failure of a Police Commissioner or of said Health

* See Laws of 1867, Chapter 956, Section 6.

† Amended, Laws of 1867, Chapter 956, Section 16.

Officer to attend any such meeting, there shall be deducted from his said salary the sum of two dollars; but these provisions shall not apply to any adjourned meeting, and it shall be the duty of the Treasurer to see that all such deductions are made before payments of said salaries. The Board may appoint a Corresponding Secretary at an annual salary not exceeding one thousand dollars.

Not to apply to adjourned meeting.

Corresponding Secretary.

§ 5. Section fourteen, sub-division second, is hereby amended by striking out the words "from the time of filing as aforesaid," where the same immediately follow the words "and also" in said sub-division.

Amendment of §14.

§ 6. Said Board may, by resolution, confer upon the President power to exercise, in the absence of the Board, the authority given in the fourteenth section, to temporarily suspend or modify any order or its execution. And said Board may change or modify any order made under the first clause of the fourteenth section, except that in cases where no hearing is asked for by the party affected, the order shall not be so altered as to render its effect more stringent than the original order.*

Power may be conferred on President.

Power to modify order.

§ 7. This act shall take effect immediately.

* Amended, Laws of 1867, Chapter 956, Section 10.

LAWS OF 1867.

CHAPTER 956.

AN ACT relating to the Metropolitan Board of Health, and to the duties and powers of the commissioners of said board, and the salaries of their subordinates. Passed May 25, 1867; three-fifths being present.

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

President and Secretary *pro tem.*

SECTION 1. The Metropolitan Board of Health shall hereafter have the power of electing persons to perform, pro tempore, the duties of secretary or president respectively, during any time when either of said officers may be absent, or be unable or may refuse to perform their respective duties; and the board may designate one of the clerks in the secretary's office of said board as "chief clerk," who may perform such duties of the secretary as shall be assigned him; and papers certified by said chief clerk shall be of the same effect, as evidence and otherwise, as if certified by the secretary; and all courts shall take judicial notice of the seal of said board and of the signature of its secretary and chief clerk.

Chief Clerk to certify papers.

Courts to take judicial notice.

Duty of Police.

§ 2. It shall be the duty of the officers and men of the Metropolitan police force to enforce all of the ordinances and regulations of said board of health, and to report all violations of the same; where, in any case the minimum penalty for a refusal to obey, or for a violation of any order, regulation or ordinance of said board of health, or any law is not fixed, the amount recovered in such case shall not be less than twenty dollars; and the judge or justice who presided at a trial where such penalty is claimed, shall, on said trial, in writing, fix the amount (not contrary to said provisions) of said penalty to be recovered, and shall direct such amount so fixed to be and it shall be included in the judgment.

Minimum of penalty.

§ 3. Said board shall have the same powers in respect of persons afflicted with pestilential or infectious diseases, as are given by the sixteenth section of the seventy-fourth chapter of the laws of eighteen hundred and sixty-six, or otherwise, in respect of persons afflicted with contagious disease, and shall have power to provide and pay for the use of proper places to which to remove such persons, as well as to designate such places; and said board may cause proper care and attendance for such persons so sick or removed, when it shall appear to said board that any such person is so poor as to be unable to procure for himself such care and attendance.

Persons sick with pestilential or infectious diseases.

Places to be provided and expenses paid.

§ 4. That portion of the fourth subdivision of the twenty-eighth section of the seventy-fourth chapter of the laws of eighteen hundred and sixty-six, which reads as follows, viz.: "And the board of supervisors of the counties of New York, Kings, Richmond and Queens (the expenses of the last named county to be charged and collected in, and in respect of the property of the towns of Newtown, Flushing and Jamaica), respectively, are empowered and directed annually," is hereby amended by inserting the word "Westchester," between the words Kings and Richmond aforesaid, in said act.

Supervisors of Westchester to tax.

§ 5. Service of any order of said board of health shall be deemed sufficient, if made upon a principal person interested in (or upon a principal officer charged with duty in respect of) the business, property, matter or thing, or the nuisance or abuse to which said order relates; or upon a person, officer or board, or one of the board who may be most interested in or affected by its execution. And if said order relate to any building (or the drainage, sewerage, cleaning, purification or ventilation thereof, or of any lot or ground on or in which such building stands) in the cities of New York or Brooklyn, used for or intended to be rented as the residence or lodging-place of several persons, or as a tenement house or lodging-house, service of such order on the agent of any person or persons for the renting of such building, lot or ground, or for the collecting of the rent thereof (or of the parts thereof to which said order may relate), shall be of the same effect and validity as due service made upon the principal of such agent, and upon the owners, lessees, tenants and occupants of such buildings, or parts thereof, or of the subject matter to which such order relates.

Service of orders.

On agents of tenement and lodging houses.

§ 6. The word nuisance, as used in this act, shall be held to embrace public nuisance as known at common law, or in equity

Nuisance defined.

jurisprudence; and it is further enacted that whatever is dangerous to human life or detrimental to health; whatever building or erection, or part or cellar thereof, is overcrowded with occupants, or is not provided with adequate ingress and egress to and from the same, or the apartments thereof, or is not sufficiently supported, ventilated, sewered, drained, cleaned or lighted, in reference to their or its intended or actual use; and whatever renders the air, or human food or drink, unwholesome, are also, severally in contemplation of this act, nuisances; and all such and corporations who created or contributed thereto, or who may support, continue or maintain or retain them, or any of them, shall be jointly and severally liable for or toward the expense of the abatement and remedying of the same; but, as between themselves, any such persons and corporations may enforce contribution or collect expenses, according to any legal or equitable relations existing between them; but nothing herein contained shall annul or defeat any common law liability or responsibility in respect of nuisances. Provided, however, that nothing contained in this act or in the act entitled "An Act to create a Metropolitan Sanitary District and Board of Health therein for the preservation of life and health, and to prevent the spread of disease," passed February twenty-sixth, eighteen hundred and sixty-six; nor in the act amending said last-mentioned act, passed April nineteen, eighteen hundred and sixty-six, shall be construed to confer or as conferring upon the said Board or its officers or agents the power or authority to order the removal, tearing down, or injury of any of the stalls or stands around Fulton or Washington Markets, in the city of New York, which were erected or enlarged to their present size prior to the first day of May, 1866, at any time before the first day of July, 1869; and if, at such date, the erection of a new market or markets, in the place of said markets, shall have been authorized by law, such power shall not be exercised at any time prior to the first day of May, 1870. But it is hereby expressly declared that the said board shall have and possess full and complete power with reference to the ventilation, drainage and cleanliness of said stands or stalls, and shall have power to order the removal of all stands or stalls which have been erected or enlarged upon any street or sidewalk in said city since said first day of May, 1866, or shall hereafter be so erected; and that the power given to said board over obstructions in the streets or on the sidewalks by existing laws is hereby expressly reaffirmed, except as herein

Liability for expense of abating.

Common law liability reserved.

Stalls around Fulton and Washington markets not to be removed.

Powers as to ventilation, drainage and cleanliness reserved.

Stalls erected or enlarged since May 1, 1866, may be removed.

Power over obstructions in the street affirmed.

modified; and the said Board are hereby directed to propose and submit to the next Legislature plans and recommendations for the building of one or two new markets, whichever they shall deem necessary, to replace the Fulton, Washington and West Washington Markets in said city.

Plans for new market to be submitted.

1. Said Board of Health may institute and maintain, in any court in the Metropolitan Sanitary District (having jurisdiction in suits where the amount claimed exceeds one thousand dollars), a suit or suits for the abatement or remedying of any of the aforesaid nuisances, either completely or as fully as may be thought necessary by the court. And said board shall also have, in said district, all common law rights to abate any nuisance without suit, which can or does in this State, belong to any person whatever. And all costs collected in any such action or proceeding shall be paid over to the Treasurer of the board and accounted for by him.

Board may institute suits to abate nuisances.

Rights of board without suit.

Disposition of costs.

2. To all such suits the provisions of chapters seventy-four and six hundred and eighty-six of the laws of eighteen hundred and sixty-six, relative to jurisdiction, costs and parties, shall be applicable; and the courts shall allow the plaintiff, at any proper stage of the case, to amend, by joining other parties defendant; and no suit shall be dismissed or defeated by reason of there being other persons interested therein or concerned in causing, creating or maintaining the nuisance complained of in such suit where such person is not a necessary party to the suit.

Chapters 74 and 686, laws of 1866 to apply.

Right to amend

Suit not defeated for defect of parties.

3. Such suit shall be tried as an issue of law, and without a jury, unless some defendant shall, in his answer, or by notice in writing to be served on the plaintiff's attorney within five days after service of said answer, demand a trial by jury on some question of fact, to be in said answer or notice distinctly stated, and in respect of which a right of trial by jury exists; and if any such demand be so made and served, the case shall, as to all the defendants, be placed on the calendar of jury trial cases; and when reached for trial, if issues of fact for the jury have not before been settled, the presiding judge may state in writing the issues of fact to be submitted to the jury, or the trial shall proceed upon the material issues of fact made by the pleadings without such written statement of issues; and the judge who presided at the trial (or some judge of the same court, if said judge be unable) shall, on receiving the verdict, or as soon there-

How issue to be tried.

How jury demanded or waived.

Issues to be stated in writing.

Judgment to be settled.

after, and at the same term, if possible, settle and cause to be entered the proper judgment in said suit.

What judgment to contain.

How expense to be borne.

To state on what property it is a lien.

How lien may be removed.

Judge may order discharge when expenses paid.

on d given.

Or on consent.

Papers to be filed.

4. If the judgment be that any nuisance may be abated or remedied, in whole or in part, said judgment shall contain sufficient directions for its proper execution, and the judge shall, from the pleadings and from the evidence given at the trial, find and state what proportion of the expense of such execution shall be paid or be borne by each or all of the defendants, jointly or severally; and if, in the opinion of the court, any part of or all the expense of such execution should be borne by said Board of Health, or the execution of such judgment should be made by said board, or under its direction, said judgment shall contain the appropriate directions in respect to such last-named payment or execution. And the court may also adjudge the board to pay or advance such proportion of the expenses of executing such judgment, as the judgment shall not direct to be paid by some one or all of the defendants. Said judgment, if against any defendant, shall, on its face, state that it will be a lien on the real property, corporeal hereditaments of such defendant or defendants respectively, to which the said nuisance shall have related, till his or their proportion of such expenses of execution are satisfied, or the lien thereof shall be otherwise discharged according to law.

5. Any person prejudicially affected by the lien of any such judgment may, on eight days' notice to said board, make a motion before any judge of the court in which said judgment was rendered, for an order that the lien of such judgment be discharged as to all or any specific property set forth; and if it shall appear to such judge, on the hearing of such motion, that such eight days' notice of such motion has been given to the Board of Health, and that such judgment has been executed and the expenses paid, which the lien sought to be discharged was designed to secure; or if a proper or sufficient undertaking or bond, with sureties, shall be given for the payment of such expenses; or if said Board of Health, through its attorney or counsel, shall in writing consent to the discharge of the last named lien, as to any or all property referred to, or as to one or more defendants, then said judge may order said lien discharged of record by the proper officer, to the extent and as to the person or persons that the order shall specify; and it shall be so discharged; and such order and the moving papers shall be filed with the proper clerk, as the judge shall direct.

6. No appeal by any party defendant shall stay the execution of any judgment aforesaid, except to the extent, in reference to the persons, and on the conditions the judge who tried the case (if he can be conveniently applied to, or, if not, some other judge of the same court), shall, on the settling of the judgment, or on motion, and on four days' notice to said Board of Health, and with due reference to the public interests involved, specially order; and if no such order shall be made, the judgment shall be executed, notwithstanding any appeal, undertaking or security, and without any liability on the part of any person (other than as herein elsewhere provided, in respect of said board), by reason of any damages or consequences growing out of the execution of such judgment, whether the same be reversed or not. All appeals by the defendant from any judgment in the said abatement suits shall be taken within ten days after notice in writing to the defendant or his attorney, of the entry of the judgment therein, and the judge who tries the case may, in his discretion, and without security, but only for the period of the said ten days, order a stay as to the execution of the judgment; and within said period of ten days an undertaking or security on appeal (to stay execution of the judgment, as herein provided) must be filed, the same to be otherwise of the form and obligation as is required in ordinary appeals from judgments, but which shall also be conditioned for the payment of the appellants' adjudged share of the expenses of executing such judgment as the court may have estimated and said judgment may have stated, or (if not estimated in said judgment), as the judge, on application and three days' notice to said board, shall estimate the same, in conformity with the judgment, for the purpose of such security on appeal. But, pursuant to any order, or otherwise, the execution of any judgment against the defendants shall not be delayed beyond said ten days, if within that period the proper undertaking or security on appeal, approved by the judge, has not been filed, and the appeal perfected, as herein provided; and the judgment may state the estimated expense that will have to be paid by any party towards executing said judgment. But said board may appeal in any such case, or any case to which it is a party, within ten days after the entry of any judgment, and without giving any security; such appeal shall be effectual, and shall operate as a stay on the judgment, or upon the part thereof in respect to which said board appeals.

Appeal not to stay proceedings, except by special order.

If no stay judgment to be executed.

Time within which appeals to be taken.

Temporary stay may be allowed.

Undertaking to be filed.

What to contain.

No stay longer than ten days.

Board may appeal without security.

Effect of appeal.

Claim for penalty may be joined in same action.

7. In any such abatement suit said board may join a cause of action for any penalty or penalties that may have been incurred by either of the defendants, by reason of, or in connection with, the nuisance complained of, or by reason of any omission or refusal of any defendant to obey or comply with any order of the Board of Health touching such alleged nuisance, and have the proper provision in any judgment therefor against one or more of the defendants. No motion for a new trial on a case made shall be entertained in any such abatement suit, except as a part of and as arising upon the papers upon a regular appeal to a general term of the court, and to be heard therewith.

Motion for new trial.

What judgment at general term to contain.

8. The judgment of the general term, if it shall to any extent direct any change in the judgment appealed from (but shall direct, or allow or fail to forbid the judgment in part to be executed), shall also contain the requisite specific provisions, so that the judgment as modified may be executed, and the due proportion of the expenses of such execution may be assessed on the defendants respectively, or on said board, as the general term may adjudge. Upon any appeal from the general term to the court of appeals, in such abatement suit, the provisions hereof as to appeals from the judgment to the general term, and as to security on appeal, shall, in all particulars, including the length of time given in which to take an appeal, apply; and no change in the code of procedure, or otherwise, hereafter to be made, though in subject matter applicable to said abatement suits, shall be construed to modify the aforesaid or other provisions of the health laws, as to any suits thereunder, unless such act shall specifically declare such modification to be intended.

Appeals to court of appeals.

When change in code of procedure to apply.

Statement of expense of executing to be verified and filed.

9. Upon the execution in whole or in part of any such judgment (if said board shall, as it is hereby authorized to do, decide the public interest to demand only execution in part thereof,) a statement of the expenses of such execution shall be made, and such expenses shall be therein apportioned not contrary to any provisions of said judgment; and upon the same being verified by the oath of some person who by due authority, took part in or had charge of the execution of such judgment, or by some officer of said board, such statement, entitled in the case, may be filed or given to the proper clerk to be filed, with such judgment; and notice of such filing or delivery, and a copy of such statement, shall be given to the attorneys of the defendant in the suit, or to the defendants themselves, or to some one of the joint defendants; and unless within ten days after any such notice,

Notice of filing to be given.

such defendants shall give due notice in writing, to said Board or to the person who, as assignee or by order, executed such judgment or is entitled to payment of such expense (in case it was not executed by said board), of a motion, and serve therewith copies of affidavits to correct such statement in particulars to be mentioned, and separately and clearly stated in such affidavit, such statement aforesaid shall be, in all suits and proceedings and tribunals, and at all times, deemed and taken to be final, conclusive, and correct; and no formal defect in such statement shall in any wise vitiate the same. And on any hearing of such motion, any party in interest, or said board, may read affidavits in support of such original statement; and the finding of any judge on the hearing of such motion, as to the said statement of such expenses and other matters in such motion involved or statement contained shall be final and conclusive, and not subject to appeal; and such finding or statement as modified by such finding, when filed, shall be of the same effect as such original statement would have been, had no motion in regard thereto been made; and for the purpose of an execution for such expense, and creating a lien under any judgment, such statements and finding or modified statement shall be regarded as a part of said judgment, and the lien thereof shall extend to any amounts stated in such final statement and finding.

10. For the proportion and amounts, as authorized by such judgment, and contained in such finding or in such statement or modified statement, when either of the same shall have become final as aforesaid, said board or any assignee of such board, or any other person who has executed such judgment, or has otherwise a right to receive the expense of so doing (or the portion thereof that may be due from any defendant), shall have execution, on such execution being allowed ex parte, by a judge of the court in which any judgment was recovered (and such execution shall, in due form, be allowed by any such judge); such execution to be against any one or more defendants or joint defendants for the recovery of any amount due from such defendant or defendants, which the party claiming such execution is entitled to receive; and such execution, except as herein especially provided, shall be of the same effect and form as any execution duly issued pursuant to any judgment. But no execution shall be issued against any defendant for less than the whole sum due from such defendant, or for less than he shall be liable to pay in such suit; but any sum adjudged against any defendants or defendant, in any such abatement suit for penalties, costs,

When statement to become final.

Proceedings on hearing of motion to correct statement.

Judges finding final.

Effect of modified finding.

Finding to be part of judgment.

When execution to be issued and for what.

Against whom execution to be.

No execution for less than amount due.

Separate execution for costs, penalty, &c.

or for other cause than the expense of the abatement or remedying of such nuisance, may be collected by separate or other executions (than those authorized for collecting such expense), to be issued in due course of law.

When preliminary injunction may be granted.

On what grounds.

What injunction order to contain.

Court may order rents to be paid to Board.

How money to be applied.

Treasurer's receipt to be a discharge.

No undertaking on injunction.

11. In any abatement suit aforesaid, the court, or a judge thereof, may issue and enforce an appropriate preliminary injunction, whenever it shall be asked for pursuant to an order of said Board of Health, by affidavit, and there shall appear to such judge to be reasonable cause therefor; and such injunction may also be granted whenever it shall be made to appear to the court or a judge thereof, by affidavit, that such injunction is needed to prevent any illegal act, conduct, or business aforesaid, or its continuance, or to prevent serious danger to human life or serious detriment to health, or great public inconvenience touching any matter or thing to which this act or the health laws aforesaid relate. And in any such injunction order the court may require any building, erection or grounds to be put in a condition that will not be dangerous to the life or detrimental to the health of any occupant, before the same shall be leased, or rented or occupied, or before any rent or compensation shall be collected for the rent or use of the whole or any portion of the same. In any such injunction order, and also in any judgment in any abatement suit, the judge or court may require the tenants, lessees and occupants (or either or any of them) of any such building, erection or grounds, to pay the rent thereof (or compensation therefor) due or to grow due, to said board, and said board to collect and receive the same, and to apply said rent to pay the expenses of putting any said building, erection or ground in a condition that will not be dangerous to the life or detrimental to the health of any present or future tenant, lessee or occupant, or of any other persons; all such collections and payments to be made in such manner, to such extent and on such conditions as any such order or judgment may provide; and every such payment to said board, and the receipt of its treasurer for such rent or compensation, shall be as effectual to protect any person who has made the same, and every such tenant, lessee and occupant, and all his and their rights under any lease or occupation, as if such payment had been made to and such receipt had been given by any lessor or owner, or any proper claimant of any such rent or compensation, who had, but for such order or judgment, the right and authority to receive the same. (But no undertaking or security shall be required or necessary, on the part of said board,

as a condition of granting such injunction, or the same being effectual; and in any final judgment in such suit there may be enjoined whatever, if about to happen or threatened, would be the proper subject matter of a preliminary injunction.) And when the public interest seems to the court to require a speedy trial or hearing of any such suit or appeal therein, it shall be the duty of any judge of any court aforesaid, or of the court to whom application by said board may be properly made, to cause such suit or appeal to be brought to a speedy trial (and before it would otherwise be reached for trial or argument in due course on the calendar,) as the judge or court may by special order direct.

Injunction on final judgment.

Trial may be expedited.

12. In so far as any judgment may be directed to be executed at the expense of said board of health, or by any party defendant at his own expense, and shall by such party defendant be so executed, the expense of such execution shall not be stated or embraced in the aforesaid statement or finding of expenses; but if any part of the execution aforesaid, which any party should have borne or paid, shall (by reason of the delay, refusal or defective act or execution of such party or any other cause,) be paid, borne or incurred by said board of health, in and about the execution of such judgment, then the said latter expenses of said board may be embraced in said statement and finding, and collected by execution as aforesaid.

As to expenses incurred by the board.

13. Whatever expenses said board of health may lawfully and properly incur in the execution of any judgment aforesaid, or in executing, or in connection with its own orders, made in good faith, or in and about the discharge, in good faith, of its supposed duties, or in satisfying any liability or judgment it may have in good faith incurred or suffered by reason of its acts done in good faith as aforesaid, or in satisfying any claim against its officers or subordinates, arising from their acts in the discharge in good faith of their supposed respective duties, shall, so far as established, be paid out of its fund or other moneys, and shall be apportioned, assessed, collected and paid as is provided in the health laws aforesaid in respect to the expenses of said board and such sums paid or recovered under this act, shall not be included in or considered as a part of that class of the expenditures of the board in respect to which there is or may be a specific limitation as to amount.

Expenses incurred by board in good faith to be paid from its funds.

Such expenses not covered by limitation.

§ 7. No member, officer or agent of said board of health, and no person (but only the board itself,) shall be sued or held to liability for any act done or omitted by either person aforesaid

Members and officers of board not personally liable.

- (in good faith and with ordinary discretion,) on behalf of or under said board, or pursuant to its regulations, ordinances or said health laws. And any person whose property may have been unjustly or illegally destroyed or injured, pursuant to any order, regulation or ordinance, or action of said board of health, or its officers, for which no personal liability may exist as aforesaid, may maintain a proper action against said board for the recovery of the proper compensation or damage to be paid by and from the funds of said board of health. Every such suit must be brought within six months after the cause of action arose, and the recovery shall be limited to the damages suffered. And there shall be the same right to sue and recover against said board (the amount to be paid from its funds,) when no security or undertaking is given by the board on appeal, or the granting of an injunction, that would have existed (pursuant to the foregoing provisions,) to sue and recover of any party to such undertaking, had the same been duly executed by any such party and board, and duly approved and filed, according to the practice in analogous cases.
- Board liable to action. § 8. Said board of health may sue or be sued in and by its proper name, as "The Metropolitan Board of Health," and not in or by the name of the members of said board or any of them; and service of all process in suits and proceedings against or affecting said board, and other papers, may be made upon the president of said board, or upon its secretary, and not otherwise; except that, according to usual practice in other suits, papers in suits to which said board of health is a party, may be served on its attorney. But when a party plaintiff or defendant to a suit (or otherwise designated in any manner, in its capacity as a board of excise,) said board of health shall be designated in said capacity, and said board of excise shall hereafter be known and described as "The Metropolitan Board of Excise," and only by such last name shall it or its members sue or be sued.
- Must be brought within six months. § 9. No preliminary injunction shall be granted against the Metropolitan board of health, or of police, or its or their officers, or against the commissioners of said boards in their capacity as a board of excise, or against the last named board, except by the supreme court, at a special or general term thereof, after service of at least eight days' notice of a motion for such injunction, together with copies of the papers on which the motion for such injunction is to be made.
- What may be recovered where no undertaking given.
- Name of Board.
- Service of papers on board.
- Name of Board of Excise.
- No injunction against board except by Supreme Court on notice.

§ 10. The sixth section of the six hundred and eighty-sixth chapter of the laws of eighteen hundred and sixty-six, is hereby amended by substituting the word "burthensome" in place of the word "stringent," therein contained. The "code of health ordinances," mentioned in said six hundred and eighty-sixth chapter, shall hereafter be designated as the "code of sanitary ordinances," and the same may embrace all matters and subjects to which, and so far, as the power and authority of said board of health extends; nor shall anything in said acts be construed as limiting their application to the subject of health only; and said ordinances may respectively be designated as, or include, rules and regulations. Hereafter said code shall be published once only in any week, and for two weeks only in the aggregate, in any one year, and it shall not be necessary to publish any portion of said code which has remained unaltered since its last previous publication. The twenty-ninth section of the seventy-fourth chapter of the laws of eighteen hundred and sixty-six shall be deemed applicable to any case hereafter to arise, when said board may find it necessary and proper to borrow money to discharge its duties and defray its expenses, as in said section more particularly mentioned; but no more than twenty-five thousand dollars shall be borrowed by virtue hereof, or under said section, in any one year. The right given in the seventy-fourth and six hundred and eighty-sixth chapters of the laws of eighteen hundred and sixty-six, to said board of health, to sue for and recover, in its own name, any penalties, shall embrace any and all penalties that might, before the acts aforesaid, have been sued for or collected by the mayor, aldermen and commonalty of the city of New York, the city of Brooklyn, or any person (or body in either of said acts referred to,) under or in respect of any law or ordinance, the power or authority given or conferred, or purporting to be exercised by which is now possessed by said board of health.

§ 6, Chap. 686,
Laws of 1866
amended.

Code of ordi-
nances.

What to em-
brace.

When to be
published.

To what § 29 of
Chap. 76, Laws
of 1866 appli-
cable.

Amount which
may be borrow-
ed.

Right to sue for
certain penal-
ties.

§ 11. If any person shall knowingly make to said board of health or any officer thereof any false return, statement or report relative to any birth, death or marriage, or other matter concerning which a report or return may be legally required of or should be made by such person: or if any member, inspector or officer, or agent of said board of health shall knowingly make to said board of health any false or deceptive report or statement, (in connection with his duties,) or shall accept or receive, or au-

False return of
births, &c.

False report.

- Bribe. authorize or encourage, or knowingly allow any other person to accept or receive any bribe or other compensation as a condition of or an inducement for not faithfully discovering and fully reporting or otherwise acting according to his duty in any respect: then any and every such person shall be deemed guilty of a misdemeanor, and shall be liable to be for such crime indicted, tried and punished according to law, and shall, in addition, forfeit all compensation due or to grow due from said board.
- Punishment.
- Witnesses may be compelled to attend before board. § 12. Upon the application of any party in interest in any matter pending examination before said board of health, by affidavit stating the grounds of such application to any judge of a court of record, and asking that any person or persons therein named shall appear before said board of health, or any person taking or about to take such examination, at some time or times and place, to be stated in said affidavit, it shall be the duty of such judge, if he discovers reasonable cause so to do, to issue his order requiring such person or persons named to appear and submit to such examination as and to the extent such order may state, at the times and places to be in said order named; and such order, to be signed by such judge, may be served, and shall in all respects be obeyed as a subpoena duly issued; and a refusal to submit to the proper examination may be punished by such judge, or by any judge of such court, as a contempt of court, upon the facts as to such refusal being brought before any such judge by affidavit.
- Expense of executing orders to be a lien. § 13. The said board, its assignee, or any person acting under its authority, in executing any order of said board, shall have a lien for the expenses necessarily incurred in the execution of said order, and said expenses shall be a lien upon the land and buildings upon or in respect of which, or either of which, the work required by said order has been done, or expenses incurred, which lien shall have priority over all other liens and incumbrances, except taxes and assessments. But no such lien shall be valid for any purpose till the said board or person shall have caused to be filed in the office, or with the officer where notices of mechanics' liens are now or may be hereafter required to be filed, a notice containing the same particulars required to be stated with reference to mechanics' liens, with the further statement that the expense has been incurred in pursuance of an order of said board, and giving its date. Upon such filing the said officer shall make the same entry on the book or index in which mechanics' liens are entered as he is required to enter in cases of
- Priority of lien.
- Where notice to be filed.
- What to contain.

mechanics' lien, together with a reference to said order by date; and thereafter the same shall, except as herein elsewhere provided, have the same effect in all respects as a mechanics' lien; and all proceedings with reference to said lien, its enforcement and discharge, shall be had and carried on in the same manner as similar proceedings with reference to mechanics' liens are now or may be hereafter by law had or carried on. The filing of such statement shall, as to all persons, have the same effect as filing of notice of mechanics' lien; and unless within two months after actual notice of such filing, proceedings are taken by the party against whom or whose said property the lien is claimed to discharge such lien, the filing shall, as to all persons having such actual notice, become conclusive evidence that the amount claimed in such statement, with interest, is due, and is a just lien upon said land and building. Such lien shall continue to be a lien for the space of four years from the time of filing such statement, unless proceedings are in the meantime taken to enforce or discharge the same, which may be done at any time during its continuance. In case proceedings are so taken, it shall remain a lien until the final termination of such proceedings; and if such proceedings shall result in a judgment for the amount claimed in such statement, or any portion thereof, such judgment shall, to such extent, be a lien in the same manner, and from the same time, as said statement.

When notice to
b. come conclu-
sive-

How long to
continue a lien.

§ 14. The said Board of Health may from time to time fix and define the time of making, and the form of returns and reports to be made to said board by the coroners of the counties of New York and Kings, in all cases of post mortem inquests, or viewing of dead bodies held by them or any of them; and the said coroners are hereby required to conform to the directions of said board in the premises, and it shall be the duty of every coroner at once, and before holding any inquest, upon being called upon to hold an inquest as aforesaid, or notified thereof, to immediately transmit and cause to be delivered to the secretary of said board of health, written notice of the fact of such call for holding inquest, in which shall be stated every particular then known to said coroner as to said call, the body, the place where it is, and the reported cause of death. If at any time said board, or the sanitary, or assistant sanitary superintendent, shall deem the protection of the public health to demand, it may (so soon as the coroner's jury shall have viewed the dead body, and an autopsy thereof shall have been made,

Powers of board
over coroners
in New York
and Kings.

Coroners to
obey directions.

Duty of coro-
ners- to notify
board of call for
inquest.

Board may or-
der burial of
body in certain
cases.

provided the coroner deems the same necessary,) order the immediate burial of any dead body, or if he or it deems that the public health demands an immediate removal of said body from the place of death to another place for inquest, may likewise at any time order said immediate removal, and shall have power to cause said orders to be obeyed and executed.

Limit of expenditure.

§ 15. The seventy-fourth chapter of the laws of 1866, is amended, by substituting in the place of the words "one hundred thousand dollars," where the same occurs in the twenty-eighth section thereof, the following words, viz: "one hundred and fifty thousand dollars." The salary of the sanitary superintendent shall be five thousand dollars per annum; of the assistant sanitary superintendent thirty-five hundred dollars, and of the sanitary inspectors not less than eighteen hundred dollars, nor more than twenty-five hundred dollars; and said board may divide said inspectors into classes, and fix the salaries of each class within said limits. Said board may appoint such number of assistant sanitary inspectors as they shall deem necessary, and fix their salaries at an amount not exceeding twelve hundred dollars each. And all sums that may be expended in executing any order, resolution or regulation of said board of health, or in executing any judgment that may be recovered by the board, or in paying any sums that may be recovered against the board of health, shall be deemed sums provided to be paid by and to be recovered back from some person or corporation, within the meaning of the said last named twenty-eighth section.

Salaries of Superintendent, asst. superintendent. Inspectors, may be classified.

Asst. inspectors.

Expense of executing orders not covered by limit.

Salary of commissioners as a board of excise.

May increase salaries of officers.

Increase to date from December 1, 1866.

Quorum, mode of calling meetings, seal, &c., of board of excise.

§ 16. By reason of the additional duties to be performed by the several commissioners of said board of health, in their capacity as commissioners of excise, the salary of each thereof, except the health officer of the port of New York, is increased by the sum of fifteen hundred dollars, and a reasonable compensation or salary in addition to what has been heretofore authorized may be paid by said board to any of its officers or employees whose labors are for that reason increased; the said increase of salary to date from the first day of December, one thousand eight hundred and sixty-six, and the same shall be paid from the moneys received for licenses. The provisions of the seventy-fourth chapter, of the laws of 1866, so far as the same relate to the calling and holding of meetings, or a quorum thereat, the duties of the secretary, the dismissal and control of officers and agents, the designation and use of a seal, the authentication and

presumptive effect and legality of the records, papers and acts of the board, shall be held to apply to said board and the commissioners named in said act and to their doings, in their capacity as a board of excise. Said board of excise shall make a like annual report as is required of said board of health.

Board of excise to report.

§ 17. Any wilful omission or refusal to obey or conform to any part of this act, or any willful resistance of or refusal to obey any order, regulation or ordinance made in pursuance of this act, shall be subject to the same punishment, penalty and liabilities, both civil and criminal, as if such omission, refusal or resistance was in respect of either of the acts mentioned in the tenth section hereof, or in respect of an order, regulation or ordinance made in pursuance of either of the last named acts.

Neglect or refusal to obey a misdemeanor.

§ 18. When any order of said board of health has been executed, or so far executed as said board may require, the expenses of such execution, giving in general terms the items of such expense and the date of execution, shall be stated in an affidavit, and the same shall be filed among the records of said board, with the order so executed; and said board shall take care, by or through some proper officer, or otherwise, that the expenses of such execution be so stated with fairness and accuracy; and when it shall appear that such execution, or the expenses thereof, related to several lots or buildings belonging to different persons, said affidavit shall state what belongs to or arose in respect to each lot of said several lots or buildings, as said board or its authorized officer may direct; and the correctness of such appointment or expenses, as stated in any such affidavit, shall not be called in question or reviewed elsewhere than before said board; but said board may revise and correct the same, as said board shall think truth and justice may require.

Statement of expense of executing orders to be filed.

Expense to be apportioned

How statement corrected.

Whenever the expenses attending the execution of any order of said board of health (and all such expenses are to be a lien and charge as said original act specifies as to certain expenses,) may be made the subject of a suit by said board, or its assignee, (or the person having a right to recover such expenses,) there may be joined in the same suit a claim or claims for any penalty or penalties for violations of either of said chapters, or of this act, or for the violation or omission to perform or obey said order, (or any prior order of said board,) or for the not doing of that or any portion of that, for the doing of which said expenses arose or were incurred; and said board may make an assignment of the claim for any such penalty or penalties, to enable the claim

Claim for penalty and for expense joined in one action

Claim for penalty may be assigned.

Joint or several judgment. for the same and the claim for said expenses to be joined in the same suit; and the proper joint or several judgment may be had against one or more of the defendants in the suit, as they or either of them may be liable in respect of both said claims, or either or any of them.

Expenses and judgment a lien upon rent. And said expenses of executing said order, and the expenses of executing any judgment in any abatement suit herein provided for, and the several judgments that may be recovered hereunder, or otherwise, for any such penalty or expenses, (or both such penalty and expenses together,) until the same are paid or discharged, shall be (a lien as other judgments, and also) a lien and charge upon rent and compensation due or then maturing from any tenant or occupant of the building, lots and premises, or the parts thereof to which any such order or judgment relates, or in respect of which any such expenses were incurred.

Also upon compensation referred to in § 16, Chap. 76, Laws of 1866. And such expenses and judgments shall respectively be liens on the several compensations mentioned, and under the circumstances stated (as to certain expenses being such lien) in the fourteenth section of the seventy-fourth chapter of the laws of eighteen hundred and sixty-six, as if the provisions there contained were here repeated. For the purpose of rendering such lien and charge more effectual to secure payment of any such expenses or judgment, from any rent or compensation aforesaid, the following proceedings may be taken:

How lien rendered effectual. 1. The board of health, or any person owning any such judgment, or the claim for any such expenses, or having a right to receive payment therefor, may serve a copy of the order under or by reason of which such expenses were authorized or incurred (with a copy of any affidavit, stating the expenses of the execution of such order,) or, if the claim be a judgment, may serve a transcript of such judgment (and any affidavit showing the expense of its execution, if there be any) upon any person or corporation owing, or who is about to owe, any compensation (in respect of any matter or thing in said fourteenth section mentioned,) or owing or about to owe any rent or compensation for the use or occupation of any grounds, premises or building, or any part thereof, to which said order or judgment relates, and in respect of which such expenses or the expenses embraced in said judgment related or were incurred; and may, at any time of such service, demand in writing that such rent, or any such compensation (to the extent of said claims for said expenses, or of any such

Copy of order with statement of expenses or transcript of judgment to be served.

Upon whom served.

Demand of rent may be served.

judgment or expense in executing the same,) shall, when such rent or compensation becomes due and payable, be paid to the treasurer of said board of health.

2. After the service of the papers aforesaid and such demand, any tenant, lessee, occupant or other person owing or about to owe, any such rent or any such compensation, shall, when such rent or any such compensation shall mature or become payable, pay the same, and from time to time any other amount thereof, as the same may become due and payable, (or so much thereof as is sufficient to satisfy any such judgment or claim for expenses or both, so served,) to the treasurer of said board of health; and such treasurer shall give his receipt as treasurer therefor, stating on account of what order or judgment and expenses the same has been paid to him and received; and the amount so received shall be deposited in some bank in the city of New York, where other funds of the board are kept, to the special account of such treasurer.

After such demand rent to be paid to treasurer.

Treasurer to give receipt and deposit in bank.

3. Any person or corporation refusing or omitting, as herein directed, to make such payment to said treasurer, after service of the paper and demand aforesaid, as herein required, shall be personally liable to said board of health, or to the party owning any such claim for expenses or judgment (if not belonging to said board,) for the amount that should have been paid to said treasurer, according to the provisions hereof, and may by such party (or board, if the owner aforesaid) be sued therefor; and such persons shall not in such suit dispute or call in question the authority of said board of health to incur or order such expense, or the validity or correctness of such expenses or judgment in any particular, or the right of the party making said demand, or his assignee, to have the same paid from such rent or compensation. But the receipt of such treasurer for any sum paid him as aforesaid, shall, in all suits and proceedings, and for every purpose, be as effectual in favor of any person holding the same as actual payment of the amount thereof to the proper landlord, lessor, owner, or other person or persons who would, but for the provisions of this statute, or said service and demand, have been entitled to receive the sum so paid to such treasurer, could or would have been. And it is further expressly declared, that no tenant or occupant of any lot, building or premises, or his or their assignee or lessee, shall be dispossessed or disturbed, nor shall any lease or contract, or rights, be forfeited or impaired, nor any forfeiture or liability be incurred by reason of any omis-

Persons refusing to pay liable for amount.

May be sued therefor.

What not to be disputed in such suit.

Treasurer's receipt effectual.

No person to be dispossessed after payment to treasurer.

sion to pay to any landlord, owner, lessor, contractor, party or other person, the sum so paid to said treasurer, or any part thereof.

Treasurer to retain moneys till twelve days after notice.

If suit to recover not brought within twelve days amount to be applied on claim.

When money may be claimed back of treasurer after twelve days.

What to prove on trial.

Who to be made parties.

Board may have judgment against co-defendant.

If suit brought within twelve days, who may be parties.

4. The treasurer of said board of health shall retain said money so paid him until twelve days after it shall be made to appear to said board of health, or some proper officer thereof, by satisfactory affidavit, that the party or parties, or his or their agent for the collection of any such rent or compensation, who (but for the provisions hereof would have been entitled to receive the same,) has had written notice of such payment being made, to said treasurer, and a copy of his receipt therefor; and if at the end of said twelve days, the party or parties aforesaid, so notified, have not instituted suit to recover said money, as herein-after provided, then the same shall, by said treasurer, be paid to any person who may own or have the right to recover the amount of the judgment or the claim for expenses so served as aforesaid (or so much thereof as the party may be entitled to,) or on account of which the money was paid to said treasurer; and after such payment by the treasurer, the party or parties aforesaid (who failed to sue) shall have no right to demand or receive any such money unless they shall, within six calendar months from the expiration of said twelve days, in a suit allege that they had no notice of such payment to said treasurer, and shall, on the trial of such suit, prove said allegation, and also that they were not liable to pay the said claim for expenses or the said penalty or judgment, and that the said board had not jurisdiction to order the expenses aforesaid, on account of which the money was so paid to said treasurer, or on which any such judgment was obtained; and in case of a recovery in such suit it shall be only to the extent such parties were not so liable; and in such suit any person or persons who may have received said money from said treasurer or board shall, by the plaintiff, be made a party defendant; and if the plaintiff shall recover such money, or any part thereof, said board of health shall be entitled to any equitable judgment in such suit which the court may see fit to direct for recovering said money back, or any part thereof, from such co-defendant, which had been paid to him by said treasurer.

5. In case any suit shall be brought under the last subdivision of this section, or before the expiration of the said twelve days, said board of health (but not said treasurer) shall be joined as a party defendant; and any person or persons, other than said

board, claiming the right to receive said money on account of said order, expenses or judgment, or who has received the same, shall also by the plaintiff be made parties defendant; and no answer need be made by said board, (except at its option, or if it be not a claimant as having paid or incurred said expenses, or as being the owner of said judgment,) further than the allegation that it holds said money so paid, and is ready to pay it over, as the result of the suit may render it proper, or to pay an equal amount to the plaintiff, if adjudged to do so; and said money shall be held by said board pending said suit, (if not paid over before suit brought as aforesaid,) and provided said suit be diligently prosecuted to judgment; and on its conclusion the board of health shall cause the money, if still with its treasurer, or the proper amount from its funds, to be paid as the determination of the suit may render proper; and no costs in any suit in this section mentioned shall be recovered against said board of health. But to entitle a plaintiff to recover in any such last named suit, he must make the same proof and establish the same facts as is required to enable him to recover in any aforesaid suit in this section mentioned, except as to his not having had notice of such payment to such treasurer. The treasurer shall obey the directions of said board, and shall not be personally liable (unless for his own fraudulent acts) for or in respect of any such money or facts aforesaid to any one, but said board of health shall pay such sum as may be finally adjudged against it in any suit.

What answer of board to contain.

Money to be held pending suit.

No costs against board.

What plaintiff to prove.

Treasurer to obey board.

Not personally liable.

§ 19. Said board of health is hereby authorized and directed to employ such competent person or persons to reduce to the form of a code all the laws applicable to said board or such parts of them as are deemed appropriate to be enforced, and to add thereto such provisions as said board may deem needful; and also to prepare a complete code of ordinances appropriate to be enacted and put in force in said district; and also such general regulations, and blank forms, as in the opinion of said board are requisite in the discharge of its duties; the same to be reported to the legislature as early as they can be prepared and perfected, and not later than the opening of the session in eighteen hundred and sixty-nine; and said board may incur the necessary expense for the purposes aforesaid, and said board may have such report printed.

Board to codify laws.

To prepare code of ordinances.

To be reported to legislature.

§ 20. No law heretofore enacted or hereafter to be enacted shall be construed to repeal or modify any portion of this act or of any law relating to said board of health, or to the members

This or prior acts not repealed by implication.

of said board, their duties or powers as such or as a Board of Exercise, unless and except in so far as said law shall expressly there- to refer, and repeal or modify the said laws.

Board of police
may build
telegraphs.

§ 21. The Board of Metropolitan Police shall have power to erect, operate, supply and maintain, under the general laws of the State relating to telegraphs, all such lines of telegraph to and between such places in the district as for the purposes and business of the police the board shall deem necessary. Said board may procure and shall own and control all instruments, fixtures, property and materials procured for the purpose above mentioned, but the cost thereof shall be chargeable to general expenses of Metropolitan police. The board of police is hereby permitted to use the said telegraph lines to aid them in facilitating the operations of the board of health, and when so used the expense thereof shall be charged to the said board of health. The board of Metropolitan police may detail from the force members thereof, not exceeding five in number, to perform surgeon's duties in any part of the district, and may remand them to post duty, and while they are so detailed to surgeon's duties their pay shall be the same as other surgeons. The pay of surgeons shall be chargeable to the respective counties in which they served as surgeons; and any surgeon may be dismissed by resolution of the board, but the unanimous vote of the board, all the commissioners being present, taken by ayes and noes, and recorded, shall be required to adopt such resolution. The board of police may, if requested by the board of health, employ their surgeons to aid the sanitary inspectors in the discharge of their duties, under such regulations and order as the board of police may make and issue.

Board of health
may use
telegraph.

Board of police
to detail patrol
men as sur-
geons.

Police surgeons
may be detailed
to assist board
of health.

§ 22. This act shall take effect immediately.

CHAPTER 908.

AN ACT for the regulation of tenement and lodging houses in the cities of New York and Brooklyn. Passed May 14, 1867.

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

SECTION 1. From and after the first day of July, eighteen hundred and sixty-seven, no house, building, or portion thereof, in the cities of New York or Brooklyn, shall be used, occupied, leased or rented for a tenement or lodging house unless the same conforms in its construction and appurtenances to the requirements of this act. When to take effect.

§ 2. Every house, building or portion thereof, in the cities of New York and Brooklyn, designed to be used, occupied, leased or rented, or which is used, occupied, leased or rented for a tenement or lodging house, shall have in every room which is occupied as a sleeping room, and which does not communicate directly with the external air, a ventilating or transom window, having an opening or area of three square feet, over the door leading into and connected with the adjoining room, if such adjoining room communicates with the external air, and also a ventilating or transom window of the same opening or area, communicating with the entry or hall of the house, or where this is, from the relative situation of the rooms impracticable, such last mentioned ventilating or transom window shall communicate with an adjoining room that itself communicates with the entry or hall. Every such house or building shall have in the roof, at the top of the hall, an adequate and proper ventilator, of a form approved in New York by the inspector of public buildings, and in Brooklyn by the assistant sanitary superintendent of the metropolitan board of health. Ventilation and windows.
Ventilator in hall.

§ 3. Every such house shall be provided with a proper fire escape, or means of escape in case of fire, to be approved in New York by the inspector of public buildings, and in Brooklyn by the assistant sanitary superintendent of the Metropolitan board of health. Fire escape.

§ 4. The roof of every such house shall be kept in good repair, and so as not to leak, and all rain water shall be so drained Roof in repair.

Stairs.	or conveyed therefrom as to prevent its dripping on to the ground, or causing dampness in the walls, yard or area. All stairs shall be provided with proper bannisters or railings, and shall be kept in good repair.
Water closets or privies.	<p>§ 5. Every such building shall be provided with good and sufficient water closets or privies, of a construction approved by the Metropolitan board of health, and shall have proper doors, traps, soil pans, and other suitable works and arrangements, so far as may be necessary to ensure the efficient operation thereof. Such water closets or privies shall not be less in number than one to every twenty occupants of said house; but water closets and privies may be used in common by the occupants of any two or more houses, provided the access is convenient and direct, and provided the number of occupants in the houses for which they are provided shall not exceed the proportion above required for every privy or water closet. Every such house situated upon a lot on a street in which there is a sewer, shall have the water closets or privies furnished with a proper connection with the sewer, which connection shall be in all its parts adequate for the purpose, so as to permit entirely and freely to pass whatever enters the same. Such connection with the sewer shall be of a form approved in New York by the Croton Aqueduct Board, and in Brooklyn by the Board of Water Commissioners. All such water closets and vaults shall be provided with the proper traps, and connected with the house sewer by a proper tight pipe, and shall be provided with sufficient water and other proper means of flushing the same; and every owner, lessee and occupant shall take adequate measures to prevent improper substances from entering such water closets or privies or their connections, and to secure the prompt removal of any improper substances that may enter them, so that no accumulation shall take place, and so as to prevent any exhalations therefrom, offensive, dangerous or prejudicial to life or health, and so as to prevent the same from being or becoming obstructed. No cesspool shall be allowed in or under or connected with any such house, except when it is unavoidable, and in such case it shall be constructed in such situation and in such manner as the Metropolitan Board of Health may direct. It shall in all cases be watertight, and arched or securely covered over, and no offensive smell or gases shall be allowed to escape therefrom, or from any privy or privy vault. In all cases where a sewer exists in the street upon which the house or building stands, the yard or area shall be so connected with the same that all water, from the roof</p>
One to every twenty occupants.	
To be connected with sewer.	
To have traps and water.	
Owners and others to prevent obstructions, exhalations, &c.	
Cesspools only when unavoidable.	
How constructed.	
Yard or area to be connected with sewer.	

or otherwise, and all liquid filth shall pass freely into it. Where no sewer exists in the street, the yard or area shall be so graded that all water, from the roof or otherwise, and all filth shall flow freely from it and all parts of it into the street gutter, by a passage beneath the sidewalk, which shall be covered by a permanent cover, but so arranged as to permit access to remove obstructions or impurities.

Or with street gutter.

§ 6. From and after the first day of July, eighteen hundred and sixty-seven, it shall not be lawful, without a permit from the Metropolitan Board of Health, to let or occupy, or suffer to be occupied separately as a dwelling, any vault, cellar, or underground room built or rebuilt after said date, or which shall not have been so let or occupied before said date. And from and after July first, eighteen hundred and sixty-seven, it shall not be lawful without such permit to let or continue to be let, or to occupy or suffer to be occupied separately as a dwelling any vault, cellar or underground room whatsoever, unless the same be in every part thereof at least seven feet in height, measured from the floor to the ceiling thereof, nor unless the same be for at least one foot of its height above the surface of the street or ground adjoining or nearest to the same, nor unless there be outside of and adjoining the said vault, cellar or room, and extending along the entire frontage thereof, and upwards from six inches below the level of the floor thereof up to the surface of the said street or ground an open space of at least two feet and six inches wide in every part, nor unless the same be well and effectually drained by means of a drain, the uppermost part of which is one foot at least below the level of the floor of such vault, cellar or room, nor unless there is a clear space of not less than one foot below the level of the floor, except where the same is cemented, nor unless there be appurtenant to such vault, cellar or room the use of a water-closet or privy kept and provided as in this act required, nor unless the same have an external window opening of at least nine superficial feet clear of the sash frame, in which window opening there shall be fitted a frame filled in with glazed sashes, at least four and a half superficial feet of which shall be made so as to open for the purpose of ventilation. Provided, however, that in case of an inner or back vault, cellar or room let or occupied along with a front vault, cellar or room, as part of the same letting or occupation, it shall be a sufficient compliance with the provisions of this act if the front room is provided with a window as herein before provided, and if the said back vault, cellar or room is connected

Cellars not occupied as dwellings before July 1, 1867, require permits.

No cellar to be used as a dwelling, unless it conforms to certain requirements.

Must be drained.

Must have water-closet, windows, &c.

When back cellar may be occupied with front one.

with the front vault, cellar or room by a door and also by a proper ventilating or transom window, and where practicable also, connected by a proper ventilating or transom window, or by some hall or passage, or with the external air.

May have steps to area.

Provided always that in any area adjoining a vault, cellar or underground room there may be steps necessary for access to such vault, cellar or room, if the same be so placed as not to be over, across or opposite to the said external window, and so as to allow between every part of such steps and the external wall of such vault, cellar or room, a clear space of six inches at least, and if the rise of said steps is open; and provided further that over or across any such area there may be steps necessary for access to any building above the vault, cellar or room to which such area adjoins, if the same be so placed as not to be over, across or opposite to any such external window.

Also over area.

After July 1, 1868, every cellar requires permit.

§ 7. From and after the first day of July, eighteen hundred and sixty-eight, no vault, cellar or underground room shall be occupied as a place of lodging or sleeping, except the same shall be approved, in writing, and a permit given therefor, by the Metropolitan Board of Health.

Garbage boxes.

§ 8. Every tenement or lodging house shall have the proper and suitable conveniences or receptacles for receiving garbage and other refuse matters. No tenement or lodging house, nor any portion thereof, shall be used as a place of storage for any combustible article, or any article dangerous to life or detrimental to health; nor shall any horse, cow, calf, swine, pig, sheep or goat be kept in said house.

Combustibles or unhealthy articles not to be stored, or animals kept.

To be kept clean

§ 9. Every tenement or lodging-house, and every part thereof, shall be kept clean and free from any accumulation of dirt, filth, garbage or other matter in or on the same or in the yard, court, passage, area or alley connected with or belonging to the same. The owner or keeper of any lodging-house, and the owner or lessee of any tenement house or part thereof, shall thoroughly cleanse all the rooms, passages, stairs, floors, windows, doors, walls, ceilings, privies, cesspools and drains thereof of the house or part of the house of which he is the owner or lessee, to the satisfaction of the Metropolitan Board of Health, so often as shall be required by or in accordance with any regulation or ordinance of said board, and shall, well and sufficiently, to the satisfaction of said board, whitewash the walls and ceilings thereof twice at least in every year, and in the months of April and October, unless the said board shall otherwise direct.

To cleanse to satisfaction of Board of Health.

To whitewash twice a year.

Every tenement or lodging-house shall have legibly posted or painted on the wall or door in the entry, or some public accessible place, the name and address of the owner or owners, and of the agent or agents, of any one, having charge of the renting and collecting of the rents for the same; and service of any papers required by this act, or by any proceedings to enforce any of its provisions, or of the acts relating to the Metropolitan Board of Health, or the Department for the Survey and Inspection of buildings, shall be sufficient if made upon the person or persons so designated as owner or owners, agent or agents.

Owners and agents names posted.

Service of papers.

§ 10. The keeper of any lodging-house, and the owner, agent of the owner, lessee and occupant of any tenement house, and every other person having the care or management thereof, shall, at all times, when required by any officer of the Metropolitan Board of Health, or by any officer upon whom any duty or authority is conferred by this act, give him free access to such house and to every part thereof. The owner or keeper of any lodging-house, and the owner, agent of the owner, and the lessee of any tenement house, or part thereof, shall, whenever any person in such house is sick of fever, or of any infectious, pestilential or contagious disease, and such sickness is known to such owner, keeper, agent or lessee, give immediate notice thereof to the Metropolitan Board of Health, or to some officer of the same, and, thereupon, said board shall cause the same to be inspected, and may, if found necessary, cause the same to be immediately cleansed or disinfected at the expense of the owner, in such manner as they may deem necessary and effectual; and they may also cause the blankets, bedding and bed clothes used by any such sick person, to be thoroughly cleansed, scoured and fumigated, or, in extreme cases, to be destroyed.

Officers of Board of Health to have access.

Sick persons to be reported.

House may be disinfected, clothing, furniture, &c.

§ 11. Whenever it shall be certified to the Metropolitan Board of Health by the Sanitary Superintendent, that any building or part thereof is unfit for human habitation, by reason of its being so infected with disease as to be likely to cause sickness among the occupants, or by reason of its want of repair has become dangerous to life, said board may issue an order and cause the same to be affixed conspicuously on the building or part thereof, and to be personally served upon the owner, agent or lessee, if the same can be found in this State, requiring all persons therein to vacate such building for the reasons to be stated therein as aforesaid. Such building or part thereof shall, within ten days thereafter, be vacated; or within such shorter time, not less than

Buildings infected or out of repair may be ordered vacated.

Notice to be posted and served.

Order may be
revoked.

twenty-four hours, as in said notice may be specified; but said board, if it shall become satisfied that the danger from said house, or part thereof, has ceased to exist, may revoke said order, and it shall thenceforward become inoperative.

Houses here-
after erected or
converted to
comply with
additional
requirements.

§ 12. No house hereafter erected shall be used as a tenement house or lodging house, and no house heretofore erected and not now used for such purpose, shall be converted into, used or leased for a tenement or lodging house, unless in addition to the requirements hereinbefore contained, it conforms to the requirements contained in the following sections:

Distances between buildings
on front and
rear of lot.

§ 13. It shall not be lawful hereafter to erect for or convert to the purposes of a tenement or lodging house a building on the front of any lot where there is another building on the rear of the same lot, unless there is a clear open space exclusively belonging thereto, and extending upwards from the ground of at least ten feet between said buildings, if they are one story high above the level of the ground; if they are two stories high, the distance between them shall not be less than fifteen feet; if they are three stories high, the distance between them shall be twenty feet; and if they are more than three stories high, the distance between them shall be twenty-five feet. At the rear of every building hereafter erected for or converted to the purposes of a tenement or lodging house on the back part of any lot, there shall be a clear open space of ten feet between it and any other building. But when thorough ventilation of such open spaces can be otherwise secured, said distances may be lessened or modified, in special cases, by a permit from the Metropolitan Board of Health.

Buildings on
rear of lot.

Distances may
be modified.

Height of rooms.

§ 14. In every such house hereafter erected or converted, every habitable room, except rooms in the attic, shall be in every part not less than eight feet in height from the floor to the ceiling; and every habitable room in the attic of any such building, shall be at least eight feet in height from the floor to the ceiling, throughout not less than one-half the area of such room. Every such room shall have, at least, one window, connecting with the external air, or over the door a ventilator of perfect construction, connecting it with a room or hall which has a connection with the external air, and so arranged as to produce a cross current of air. The total area of window or windows in every room communicating with the external air, shall be at least one-tenth of the superficial area of every such room; and the top of one, at least, of such windows, shall not be less than seven feet and six

Windows.

Size of windows.

inches above the floor, and the upper half, at least, shall be made so as to open the full width. Every habitable room of a less area than one hundred superficial feet, if it does not communicate directly with the external air, and is without an open fire-place, shall be provided with special means of ventilation by a separate air shaft extending to the roof, or otherwise, as the Board of Health may prescribe.

Small room to have special ventilation.

§ 15. Every such house hereafter erected or converted shall have adequate chimneys running through every floor, with an open fire-place or grate, or place for a stove, properly connected with one of said chimneys, for every family and set of apartments. It shall have proper conveniences and receptacles for ashes and rubbish. It shall have Croton, Ridgewood, or other water furnished at one or more places in such house, or in the yard thereof, so that the same may be adequate and reasonably convenient for the use of the occupants thereof. It shall have the floor of the cellar properly cemented, so as to be water tight. The halls on each floor shall open directly to the external air, with suitable windows, and shall have no room or other obstruction at the end, unless sufficient light or ventilation is otherwise provided for said halls, in a manner approved by the Metropolitan Board of Health.

Chimneys.

Ashes and rubbish.

Water.

Cellar floor.

Halls open at ends.

§ 16. Every owner or other person, violating any provision of this act, after the same shall take effect, shall be guilty of a misdemeanor, punishable by a fine of not less than ten dollars, nor more than one hundred dollars, or by imprisonment for not more than ten days for each and every day that such violation shall continue, or by both such fine and imprisonment in the discretion of the court. He shall also be liable to pay a penalty of ten dollars for each and every day that such offence shall continue. Such penalty may be sued for and recovered by the Metropolitan Board of Health, and when recovered shall be paid over to the treasurer of said board. In every proceeding for a violation of this act, and in every such action for a penalty, it shall be the duty of the owner of the house to prove the date of its erection or conversion to its existing use, if that fact shall become material, and the owner shall be prima facie the person liable to pay such penalty, and after him the person who is the lessee of the whole house, in preference to the tenant or lessee of a part thereof. In any such action the owner, lessee and occupant, or any two of them, may be made defendants, and judg-

Punishment for violation.

How recovered

Owner, lessees and occupant may be defendants.

ment may be given against the one or more shown to be liable, as if he or they were sole defendant or defendants.

Definition of tenement house.

§ 17. A tenement house within the meaning of this act, shall be taken to mean and include every house, building, or portion thereof which is rented, leased, let or hired out to be occupied, or is occupied as the house or residence of more than three families living independently of another, and doing their cooking upon the premises, or by more than two families upon a floor, so living and cooking, but having a common right in the halls, stairways, yards, water closets or privies, or some of them. A lodging house shall be taken to mean and include any house or building, or portion thereof, in which persons are harbored or received, or lodged for hire for a single night, or for less than a week at one time, or any part of which is let for any person to sleep in for any term less than a week. A cellar shall be taken to mean and include every basement or lower story of any building or house of which one-half or more of the height from the floor to the ceiling is below the level of the street adjoining.

Definition of lodging house.

Definition of cellar.

Board of Health may modify.

§ 18. The Metropolitan Board of Health shall have authority to make other regulations as to cellars and as to ventilation, consistent with the foregoing, where it shall be satisfied that such regulations will secure equally well the health of the occupants.

When to take effect.

§ 19. This act, except when it is otherwise expressly provided, shall take effect in May first, eighteen hundred and sixty-seven.

CHAPTER 700.

AN ACT with reference to the powers of the Metropolitan Board of Health in the regulation of cattle driving and other matters. Passed April 24, 1867.

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

Board of Health to regulate driving of cattle, &c., in New York and Brooklyn.

SECTION 1. From and after the passage of this act it shall not be lawful to drive any cattle, sheep, swine, pigs, or calves, through the streets or avenues of New York or Brooklyn, or any of them, except at such times and in such manner as the Metropolitan Board of Health may by ordinance or resolution prescribe. But so long as said board shall permit the business

of slaughtering animals for food to be carried on, in that portion of the city of New York south of Fortieth Street, it shall be lawful to drive through such streets and avenues in the city of New York as may be designated by said board, and under such restriction as to numbers as said board may prescribe, cattle from eight o'clock in the evening till two hours after sunrise in the morning, and sheep until twelve o'clock at noon. But in designating the streets and avenues the said board shall have regard as well to the convenience of persons driving the same as to the character, condition and ordinary use of the said streets and avenues.

So long as slaughter houses permitted cattle may be driven till two hours after sunrise, and sheep till noon.

Board may designate streets and prescribe numbers.

§ 2. No person in charge of any cattle, sheep, pigs, swine or calves, shall, if able to prevent it, permit any such cattle, sheep, pigs, swine or calves, to pass upon or across any sidewalk in said cities, and any person violating any provision of this act shall be deemed guilty of a misdemeanor, and on conviction be punished by a fine of not less than ten or more than fifty dollars, or by imprisonment in the penitentiary for not more than thirty days, or by both such fine and imprisonment.

Cattle, &c., not to pass on or across sidewalk.

Penalty for violating law.

§ 3. In all cases to which said Board of Health is a party, either when acting as such or as a Board of Excise, preference shall be given to the same by all courts and judges on all motions, trials and appeals, in the same manner as to cases to which the people of the State are directly parties plaintiff, and whenever said board shall seek any provisional remedy, or shall prosecute any appeal, it shall not be necessary before obtaining or prosecuting the same to give any undertaking, but such board shall be liable in the same manner as if an undertaking had been given in the ordinary manner.

Boards of health and excise to have preference in court.

Boards need not give undertakings on appeal, &c.

§ 4. This act shall take effect immediately.

CHAPTER 687.

AN ACT to authorize the abatement and prevention of certain nuisances deemed dangerous to the public health in the city of Brooklyn. Passed April 23, 1867, three-fifths being present.

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

SECTION 1. Whenever it shall appear to the Metropolitan Board of Health, that any surface water has been, or shall be liable to be ponded at any place in the city of Brooklyn, and

When surface water ponded in Brooklyn, board of health to notify sewerage commissioners.

remain stagnant, so as to be or become a nuisance dangerous to the public health in the vicinity thereof, they shall cause a notice in writing to be served upon the Board of Sewerage Commissioners of said city, specifying the location of such place.

Sewerage commissioners to ascertain cause.

§ 2. Said Board of Sewerage Commissioners, upon receiving such notice, shall examine and ascertain whether such ponding of water has been or is liable to be caused by the erection of any building, fence, wall or other obstruction, so as to prevent the natural or usual flow or passage of surface water, and for that purpose, and for the purpose of draining such water from such pond, the said Sewerage Commissioners, their agents and workmen, shall be and hereby are authorized to enter into and upon any lands and premises in the vicinity of the place designated in said notice, and cause a suitable drain to be made, or a suitable pipe to be laid across any land above or below the surface thereof, as they may deem best, so as to drain such water from such pond or place, and cause it to flow and be discharged into some public street or sewer.

May enter upon lands.

May cause drain to be made.

Sewerage commissioners to estimate damages.

§ 3. Said Sewerage Commissioners shall estimate the damages which may be sustained by the owner or owners of the lands upon which such drain shall be made, or pipes laid, after giving to such owner or owners ten days previous notice in writing, of the time and place of making such estimate, which notice shall be served upon such owner or owners personally, or leaving the same at his or their usual place of residence, or upon the premises where such drain or pipe shall be made or laid, with some person of suitable age to receive the same.

Ten days' notice to be given owners.

If deemed proper, may pay expenses from general sewerage fund.

§ 4. If said Sewerage Commissioners shall, under all the circumstances deem it proper that such damages and the cost and expenses incurred in making such drain, or laying such pipe, should be borne by the public, as being necessary to prevent or abate a nuisance dangerous to the public health, they shall pay the same out of the general fund raised for sewerage purposes; but if they shall not deem it proper that such damages, costs and expenses should be so paid, then they shall make a just and equitable assessment thereof, upon all the lands upon which the buildings, fences, walls or other obstruction, which has caused such water to pond, shall have been or shall be made, and upon such other land adjacent thereto, if any, the owners of which, in the opinion and judgment of said commissioners, ought in justice to bear and pay any part thereof, and the assessment so made shall be liens upon the lands assessed, and shall be collect-

Or may assess upon lands benefited.

Assessments to be liens.

ed in the same manner as other assessments made for the costs and expenses of constructing sewers in said city are collected.

§ 5. If any person shall wilfully destroy or injure any such drain, pipe, or obstruct or prevent the passage of water through the same, he or she shall be guilty of misdemeanor. Misdemeanor to impair or obstruct drain.

§ 6. This act shall take effect immediately.

CHAPTER 382.

AN ACT to incorporate the Soldiers' Business Messenger and Dispatch Company. Passed April 15, 1867.

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

* * * SECTION 6. Said corporation is hereby authorized and shall have power to erect and maintain covered stands or booths on the streets of the cities and villages in said district, except Broadway in the city of New York. Provided, that no booth or stand shall be placed upon the sidewalk, without previous consent of the owner or lessee of the property adjoining or against said booth or stand; and the number, size and location of said booths or stands shall be determined by the Metropolitan Board of Health, or a majority of said board, who shall determine and locate the same upon application by the president of this corporation. Corporation may place stands in street if approved by board of health.

* * * SECTION 9. This act shall take effect immediately.

CHAPTER 806.

AN ACT to enable the Board of Supervisors of the County of New York to raise money by tax for certain county purposes ; to extend the powers of the Metropolitan Police, and to provide for the auditing and payment of unsettled claims against said county. Passed April 25th, 1867, three-fifths being present.

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

Permits to visit vessels at quarantine.

* * * SECTION 26. Nothing in this act shall be deemed to conflict in any manner with the Quarantine laws, or with the rules and regulations of the Health Officer of the Port of New York ; nor shall any permit or licenses issued under the act hereby amended, authorize any person to visit any ship or vessel under quarantine, without the authority of the Health Officer of the Port of New York, or the Metropolitan Board of Health.

CHAPTER 586.

AN ACT to enable the Board of Supervisors of the County of New York to raise money by tax for the use of the corporation of the city of New York, and in relation to the expenditure thereof ; and to provide for the auditing and payment of unsettled claims against said city, and in relation to actions at law against said corporation. Passed April 23, 1867 ; three-fifths being present.

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

(EXTRACT.)

Moneys appropriated to Board to clean streets not provided for by contract.

Moneys appropriated to clean streets oftener than required by contract.

“For the Metropolitan Board of Health to pay the expense of cleaning such streets, alleys, squares and public places in the city of New York, as are not provided to be cleaned by any existing contract, the sum of five thousand dollars, or so much thereof as may be necessary for that purpose. If at any time the said board shall be of the opinion that the public health re-

quires that any street or streets, avenue or avenues, public place or places, should be cleaned more frequently than is required by the existing contract for cleaning the streets, they may order the same to be cleaned as much oftener as in their opinion the public health requires, and the comptroller shall pay to the person doing the work, on the certificate of the president of said board, the amount that may be agreed upon therefor, not exceeding in the aggregate the sum of twenty thousand dollars, which sum is hereby appropriated therefor. But nothing herein contained shall be construed as exempting the contractor for cleaning the streets from any existing liability.”

Existing contracts not affected.

CHAPTER 578. LAWS OF 1866.

AN ACT to regulate the sale of intoxicating liquors within the Metropolitan Police District of the State of New York, passed April 14, 1866; three-fifths being present.

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

Board of Health constitute Board of Excise.

SECTION 1. The persons who are and from time to time shall be Commissioners of the Metropolitan Board of Health, are hereby constituted and created a Board of Excise, in and for the Metropolitan District of the State of New York, excepting and excluding the County of Westchester, and from and after the passage of this act, they alone shall possess the powers and perform the duties of Commissioners of Excise within said Metropolitan Police District, excepting said County of Westchester. They shall receive no compensation for their services as such Board of Excise.*

Extent of district.

Inspector of excise.

§ 2. There shall, in the said Metropolitan Police District, be an officer called and known by the title of "Inspector of Excise," who, under the Board of Excise, shall be charged with the performance of such of the duties herein imposed upon them as they can and shall delegate to him. The Board of Excise shall have power to appoint and remove such officer, and to pay him out of the moneys to be received by them, as hereinafter provided, such salary as they shall deem proper, not exceeding two thousand dollars a year.

Salary.

License required.

§ 3. From and after the first day of May, 1866, no person or persons shall, within the said Metropolitan Police District, exclusive of the County of Westchester, publicly keep, or sell, give away or dispose of any strong or spirituous liquors, wines, ale or beer in quantities less than five gallons at a time, unless as he or they may be licensed, pursuant to the provisions of this act, and may be permitted by it.

Board to grant licenses.

§ 4. The said Board of Excise shall, subject to the further provisions hereof, have power to grant licenses to any person or persons of good moral character, and who shall be approved by them, permitting him and them for one year from the time the same shall be granted to sell and dispose of, at any one named place within said Metropolitan Police District, exclusive of the

* Amended, Laws of 1867, Chapter 956, Section 16.

County of Westchester, strong and spirituous liquors, wine, ale and beer, in quantities less than five gallons at a time upon receiving a license fee, to be fixed in their discretion, and which shall not be less than thirty nor more than two hundred and fifty dollars.

Rate of license fee.

§ 5. Such licenses shall be in the form of a written or printed certificate, stating the name of the person or persons, and the place licensed; shall be signed as the said Board of Excise shall provide and direct; shall be kept posted by the person or persons licensed, in a conspicuous position in the room or place where his or their sales are made, and shall be exhibited at all times by the person or persons so licensed, and by all persons acting under such licenses, on demand to every sheriff, constable or officer or member of police: any omission so to display and exhibit such certificate shall be presumptive evidence that any person or persons so omitting to display and exhibit the same has and have no licenses.

Form of license.

License to be posted and exhibited.

Result of omission.

§ 6. Such licenses shall only be granted on written application to the said Board, signed by the applicant or applicants, specifying the place for which license is asked, and the name or names of the applicant or applicants, and of every person interested or to be interested in the business to authorize which the license shall be used.

Form of application.

§ 7. Persons not licensed may, within the said Metropolitan Police District, exclusive of the County of Westchester, keep, and in quantities not less than five gallons at a time, sell and dispose of strong and spirituous liquors, wines, ale and beer, provided that no part thereof shall be drunk or used in the building, or in any building, yard, garden or inclosure communicating with, or in any public street or place contiguous to the building in which the same shall be kept, sold or disposed of.

Unlicensed persons may sell more than five gallons.

But not to be drunk on premises.

§ 8. Licenses granted as above shall not authorize any person or persons to, nor shall any person or persons publicly keep, sell, give away or dispose of any strong or spirituous liquors, wines, ale or beer on Sunday, or on any day upon which a general or special election or town meeting shall be held within one-quarter of a mile from the place where the same shall be held.

Not sell on Sunday or election day.

§ 9. The said Board of Excise shall keep a complete record of the names of all persons licensed as herein above provided, with a statement of the place licensed and license fee imposed and paid in each case, which record they shall at all times per-

Record of licenses to be kept.

mit to be seen in a convenient place at their principal headquarters in the City of New York.

Licensed persons to preserve order.

§ 10. Persons licensed as herein provided shall prevent, so far as is in their power, and shall at all events give immediate notice to the nearest sheriff, constable, officer or member of police, of all and every disturbance, disorder, or breach of the peace in any place which shall be so licensed, and shall forthwith cause all persons to be removed therefrom, and the place to be closed, and kept closed until quiet is restored.

Shall close if necessary.

No sales to minors or apprentices without consent.

§ 11. No person shall sell, give or dispose of any strong or spirituous liquors, wines, ale or beer to any apprentice or person under eighteen years of age, knowing or having reason to believe him to be such, without the consent, in the case of an apprentice, of his master or mistress, and in the case of a person under eighteen years of age, of his father, mother or guardian.

No sales to drunkards or intoxicated persons.

§ 12. No person shall sell, give, or dispose of, and no person licensed as herein provided, shall suffer any person for, under, or employed by him, to sell, give or dispose of any strong or spirituous liquors, wines, ale or beer to an habitual drunkard, or to any intoxicated person or persons then being under the influence of liquor.

Sales to wives, &c.

§ 13. No person licensed as herein provided shall, against the request of any wife, husband, parent or child, sell, give or dispose of any strong or spirituous liquors, wines, ale or beer to the husband of any such wife, wife of any such husband, parent of any such child, or child of any such parent.

Places closed Sundays and from midnight till sunrise.

§ 14. All persons licensed as herein provided shall keep the places at which they are so licensed to keep, sell, give and dispose of strong and spirituous liquors, wines, ale and beer, orderly and quiet, and between the hours of twelve o'clock at night and sunrise, and on Sundays, completely and effectually closed. Nothing herein contained shall be construed to prevent hotels from receiving and otherwise entertaining the travelling public upon Sundays, subject to the restrictions contained in this section.

Hotels on Sundays.

Unlicensed persons not to profess to sell.

§ 15. No person or persons except those licensed as herein provided, and those permitted to sell in quantities more than five gallons at a time, shall give out or profess to sell, or to have for sale, strong or spirituous liquors, wines, ale or beer, or shall have, permit, or continue in or about his or their premises any sign, notice or token that such liquors, wines, ale or beer are there

Signs.

kept for sale, or give notice or advertise that he or they have such liquors, wines, ale or beer for sale. Advertisements

§ 16. Every person who shall violate any of the foregoing provisions of this act, shall for each offence be guilty of a misdemeanor, and on conviction thereof, shall be punished with a fine of not less than thirty dollars, nor more than one hundred dollars, or with imprisonment for not less than ten days, nor more than thirty days, or by both such fine and imprisonment. In addition thereto, every person who shall violate any of the foregoing provisions hereof shall be liable to a penalty of fifty dollars for each offence, recoverable in a civil action in the name of said Board of Excise, provided that any person or persons may complain to the President of such Board of Excise of any such offence; and, on the recovery by said Board of the penalty therefor, the said Board shall pay to the person or persons so first complaining, if not members of the Police Department, the one-half of the penalty so recovered; and said Board shall have authority to employ and pay attorney or attorneys to prosecute actions for the recovery of such penalties. Punishment for violation.
Fine and imprisonment.
Penalty.
Attorney.

§ 17. No person who shall trust any person for any strong or spirituous liquors, wines, ale or beer, on a sale thereof in quantities less than five gallons, to be, or which shall be drunk, or used in the building, or in any building, yard, garden or enclosure communicating with, or in any public street, or place contiguous to the building in which the same shall be sold, can recover or compel payment therefor. No payment for sales on credit.

§ 18. Any conviction for violation of any of the foregoing provisions hereof, by any person or persons licensed, or at any place licensed, as herein provided, shall forfeit and annul such license. Conviction forfeits license.

§ 19. It shall be the duty of every sheriff, constable, policeman and officer of police to compel the observance, and to prevent the violation of the foregoing provisions hereof; if necessary, by summarily closing and keeping closed any places in which shall be violated any of such provisions. Police to enforce law.
May close places.

§ 20. Every sheriff, constable, officer or member of police shall forthwith arrest all persons who shall violate any of the provisions of this act, and carry such persons before any magistrate of the city or town in which the offence shall be committed, to be dealt with according to the provisions of this act. And it shall be the duty of every magistrate to entertain complaints for a Arrest without warrant.
Duty of magistrates.

violation of any of the provisions of this act made by any person under oath.

Intoxicated persons to be arrested.

§ 21. It shall be the duty of every sheriff, constable, officer or member of police to arrest any person who shall be intoxicated in the street, any public place or places where strong and spirituous liquors, wines, ale or beer are sold, publicly kept or disposed of, and to take him before any magistrate of the same city or town; and if such magistrate shall, after due examination, deem him too much intoxicated to be examined, or to answer on oath correctly, the magistrate shall cause him to be confined until he shall become sober, and then to be brought before the magistrate, who shall examine him on oath or affirmation as to the cause of such intoxication, and ascertain from him from whom he obtained the liquor he shall have drunk; but such examination shall not be used as evidence against such intoxicated person in any prosecution, civil or criminal, such intoxication being hereby declared to be an offence, punishable upon conviction by a fine of ten dollars and costs, and imprisonment until the same shall be paid, not exceeding ten days.

Magistrates to examine under oath.

Punishment for intoxication.

Board may revoke license.

§ 22. The said Board of Excise may at any time, and, upon the complaint of any resident of the said Metropolitan Police District, except in the County of Westchester, shall summon before them any person or persons licensed as aforesaid; and if they shall become satisfied that any such person or persons has or have violated any of the provisions of this act, they shall revoke, cancel and annul the licenses of such person or persons, which they are hereby empowered to do. Upon any inquiry the said Board, or the party complained of, may summon, and said Board may compel, the attendance of witnesses before them and examine them under oath.

May compel attendance of witnesses.

Disposition of license money and penalties.

§ 23. All license fees and penalties herein provided for shall be received by, and all fines herein provided for shall be paid over to the said Board, and shall be by them, after deducting therefrom the necessary expenses of collection, appropriated to, and to diminish the expenses of the Police Department of the said Metropolitan Police District, exclusive of the County of Westchester; provided that nothing herein contained shall divert from the State Inebriate Asylum such proportion of license fees as is now set apart for said institution by existing laws. The said

State Inebriate Asylum.

Board to report.

Board shall annually report all sums so received by them, and

all magistrates and courts shall monthly report and pay over to said Board all fines imposed and received by them.*

Magistrates and courts to pay over.

§ 24. All courts having jurisdiction to try offences against the provisions of this act shall instruct and charge grand jurors to inquire into all such offences and to indict all offenders.

Grand jurors to be charged.

§ 25. Any person who shall sell any strong or spirituous liquors or wines to any of the individuals to whom it is declared by this act to be unlawful to make such sale, shall be liable for all damages which may be sustained in consequence of such sale, and the parties so offending may be sued in any court in this State by any individual sustaining such injuries, or by said Board of Health, and the sums recovered shall be for the benefit of the party injured.

Persons selling in violation of the law liable for damages.

§ 26. All acts and parts of acts inconsistent with the provisions hereof are hereby repealed, so far as the same shall apply to the said Metropolitan Police District, except the County of Westchester.

Repealing clause.

§ 27. This act shall take effect immediately.

* Amended, Laws of 1867, Chapter 470, Chapter 806, Section 6, Chapter 843, Section 4, Chapter 889, Chapter 926, Chapter 956, Section 16. See *post*.

CHAPTER 77.

AN ACT to fix the number necessary to form a quorum of the board of excise, in and for the Metropolitan police district of the State of New York, excepting and excluding the county of Westchester. Passed March 11, 1867.

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

SECTION 1. A majority of the board of excise in and for the Metropolitan Police District of the State of New York, excepting and excluding Westchester county, is hereby declared to be a quorum thereof, with power to do any and all business entrusted to said board. But no action or order shall be had or taken by the said board, unless at a meeting thereof, regularly called, there shall have been a vote thereon had and taken in which vote a majority of said board shall have concurred.

§ 2. This act shall take effect immediately.

Quorum.

Majority of board to concur.

CHAPTER 470.

AN ACT to amend an Act entitled "An Act to establish an Asylum for Inebriates in the City of New York, and provide for the government thereof," passed April 8th, eighteen hundred and sixty-four. Passed April 20, 1867, three-fifths being present.

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

SECTION 1. * * * Said Commissioners [of Charities and Correction] are hereby authorized to receive from the Board of Excise, from time to time, twelve per cent. of the aggregate amount of moneys received in each and every year by said Board of Excise, from and after April first, eighteen hundred and sixty-seven, for license fees received for licenses granted in the city and county of New York, and said board on application of the said commissioners, are hereby authorized and directed to pay over from time to time to said commissioners such percentage, which moneys shall be strictly applied by said commission,

Commissioners of charities and correction to receive twelve per cent. of excise moneys.

ers to the building, maintenance and support of said asylum, and duly accounted for in their annual report. But nothing in this act contained shall be construed to divert from the State Inebriate Asylum, or interfere with the proportion of said license fees set apart for said institution by existing laws. The said commissioners are authorized to demand and receive all fines imposed for intoxication or disorderly conduct in the city of New York, which fines, without any deduction, shall be paid over monthly by the magistrate, clerk, or other person who receives the same, to the said commissioners, and shall be by them applied and accounted for as other moneys received by virtue of this act.

Also fines for
intoxication,
&c.

CHAPTER 806.

AN ACT to enable the Board of Supervisors of the County of New York to raise money by tax for certain county purposes; to extend the powers of the Metropolitan Police, and to provide for the auditing and payment of unsettled claims against said county. Passed April 25th, 1867, three-fifths being present.

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

* * * SECTION 6. The Metropolitan Board of Health, created by the act chapter seventy-four of the laws of eighteen hundred and sixty-six, acting as the Board of Excise, as authorized by the act chapter five hundred and seventy-eight of the laws of eighteen hundred and sixty-six, is hereby authorized and directed, from and after the passage of this act, through the person acting as treasurer of the said Board of Excise, to pay over monthly to the Chamberlain of the City of New York, for the use of the Commissioners of the Sinking Fund of said city, and to be applied by said commissioners, as provided by law, for the redemption of the city debt, all license fees and fines which may be collected by the said Board of Excise in the county of New York, in pursuance of the act chapter five hundred and seventy-eight, before mentioned, after deducting therefrom twelve per cent. of all such moneys received since the first day of April, eighteen hundred and sixty-seven, which are now provided by law to be paid annually to the Commissioners of Charities and

Excise money
in New York to
be paid commis-
sioners of sink-
ing fund.

How applied.

Deductions.

State Inebriate
Asylum to be
conveyed to
State.

Expenses of
collection de-
ducted.

Salary of treas-
urer.

Correction, and also deducting ten per cent. of all such moneys received prior to April first, eighteen hundred and sixty-eight, which ten per cent. shall be paid to the New York State Inebriate Asylum, at Binghamton, which said ten per cent. shall be paid to the said, The New York State Inebriate Asylum, as now required by law; provided that the trustees of the said asylum shall, within sixty days after the passage of this act, make and execute a conveyance to the State of New York, by deed, duly acknowledged and recorded, of all the real estate, with the buildings and improvements thereon, and appurtenances thereto, owned by said asylum in the County of Broome, in said State, which conveyance the said trustees are hereby empowered to make; and also deducting the necessary expenses and salaries incurred in collecting said fees, as authorized by law; and no portion of license fees and fines, except as above provided, shall be paid over to any commission or corporation. The treasurer of the Board of Excise shall receive for his compensation in collecting such license fees and fines the sum of one thousand five hundred dollars per year.

CHAPTER 843.

AN ACT to incorporate the Inebriates' Home for Kings County. Passed May 9th, 1867.

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

Twelve per
cent. of excise
money in
Kings county
to be paid to
Inebriates'
Home.

* * * § 4. The Treasurer of the Board of Excise in and for the Metropolitan Police District of the State of New York, shall pay to the Treasurer of the said Inebriates' Home of Kings County, or his order, twelve per cent. of all the moneys hereafter received by said Board of Excise for licenses granted under said excise law to persons residing in the county of Kings, after all legal deductions therefrom, and deducting therefrom the proper proportion of the expenses of said board, and such sums as now or may hereafter be appropriated by law to other purposes. And all fines hereafter received by said board for violations of said excise law committed in said county of Kings, shall in like manner be paid to the treasurer of said Inebriates' Home of Kings county. The money herein directed to be paid to the treasurer of said Inebriates' Home, shall be so paid by

Also fines.

the treasurer of said Excise Board within thirty days after the receipt thereof by such board; which money shall be applied to the founding and maintenance of such Inebriates' Home, and for no other purpose.

CHAPTER 889.

AN ACT providing for the application of moneys hereafter collected in the Metropolitan Excise District for certain fines and from licenses for the sale of liquors. Passed May 10th, 1867, three-fifths being present.

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

SECTION 1. From and after the first day of May, one thousand eight hundred and sixty-seven, the Treasurer of the Metropolitan Board of Excise shall pay over all sums received by him for licenses and fines, as follows:

All such sums as are received for licenses granted in the city of Brooklyn, and for fines imposed for offences in said city, to the Commissioners of the Sinking Fund of the city of Brooklyn, to be applied by them without deduction to the extinction of the debt of said city; all such sums as may be received from the towns in the county of Richmond to the Commissioner of Common Schools in said county, to be by him apportioned among the several school districts in said county, rateably in proportion to the number of scholars attending school in each, and applied for the maintenance of the schools, and the erection and improvement of school buildings therein respectively; in the towns of Kings county, except the city of Brooklyn, to the Commissioner of Schools, the money received from each town to be apportioned by him among the several school districts in such town, in proportion to the number of scholars attending school in each district, and applied for school purposes; and in the towns of Queens county to the highest officer having the general charge of schools in said county, to be by him distributed in like proportion among the towns from which it is re-

Application of
excise moneys
in Brooklyn.

In Richmond
county.

In country
towns of
Kings.

In Queens
county.

Deductions.

ceived, and to be applied for like purposes. But before paying over such sums the said treasurer shall deduct the proper proportion of the expenses of said board, and the ten per cent. now provided by law to be paid to the State Inebriate Asylum. He shall also deduct from the sums received from Brooklyn any sum now provided by law to be paid to the Inebriates' Home.

§ 2. This act shall take effect immediately.

CHAPTER 926.

AN ACT appropriating the excise fees and fines collected in the town of New Utrecht, to the use of Common Schools in that town. Passed May 16, 1867.

License fees
and fines in
New Utrecht to
go to schools.

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

SECTION 1. All license fees provided for by the act to regulate the sale of intoxicating liquors within the Metropolitan Police Department, of the State of New York, passed April sixteen, eighteen hundred and sixty-six, and all fines therein provided for which shall hereafter be received by the board of excise of the said Metropolitan police district, from the town of New Utrecht, in the County of Kings, shall, after deducting the necessary expenses of collection and the amounts otherwise provided by law, be paid over to the supervisor of the town, and shall be applied by him to the payment of the wages of the teachers of the different districts in proportion to the amount of scholars in each district in the said town.

§ 2. This act shall take effect immediately.

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